

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:MIDDLESEX COUNTY
DOCKET NO. L-7759-90

RAYMOND FREEMAN, individually
and as Executor of the Estate
of MADELINE FREEMAN,
deceased;

Plaintiff

vs

DEPOSITION UNDER
ORAL EXAMINATION
OF
RICHARD GRIMMIE
(Volume I)

A.C.&S., INC., formerly
Armstrong Contracting &
Supply, Inc.;
THE ANCHOR PACKING COMPANY;
A.P. GREEN INDUSTRIES, INC.,
individually and
as successor to A.P. Green
Firebrick Company and A.P. Green
Refractories Co.;
ARMSTRONG WORLD INDUSTRIES,
INC., formerly Armstrong Cork
Company and Armstrong Contracting
& Supply;
THE BABCOCK & WILCOX COMPANY,
individually and as successor
to B&W Refractories Limited, Standard
Refractories Limited and Holmes
Blunt Limited;
BECHTEL CORPORATION;
BETHLEHEM STEEL CORPORATION;
BURNS & ROE ENTERPRISES, INC.,
formerly known as Burns and
Roe, Inc.;
BURNS AND ROE SYNTHETIC FUELS,
INC.;
CAREY CANADA, INC., formerly
Carey Canadian Mines, Ltd.,
individually and as successor
to Quebec Asbestos Corp., Ltd.;
THE CELOTEX CORPORATION, individually
and as successor to Philip
Carey Corporation, Philip Carey
Mfg. Co., Philip Carey Company,
Inc., XPRU Corporation, Briggs Manufacturing

1 Company, Panacon Corporation, Smith
2 and Kanzler, Inc., and Quebec
Asbestos Corp., Ltd.;
3 COLUMBIA ACOUSTICS AND FIRE-
PROOFING COMPANY;
4 COMBUSTION ENGINEERING, INC.,
individually and as successor
5 to M.H. Detrick Company,
Walsh Refractory Corporation,
6 and Refractory and Insulation
Corporation, now known as
C. & E. Refractories, Inc.;
7 COURTER & COMPANY, INCORPORATED;
8 CROWN, CORK & SEAL COMPANY,
INC., individually and as
9 successor to Mundet Cork
Corporation;
10 DANA CORPORATON, individually
and as successor to Smith
& Kanzler, Inc. and Victor
11 Gasket Co.;
12 DURABLE MANUFACTURING COMPANY;
EAGLE-PICHER INDUSTRIES, INC.;
13 EASTCO INDUSTRIAL SAFETY CORP.,
a/k/a/ Charkate Glove and
Specialty Company;
14 EMPIRE-ACE INSULATION MFG.
CORP., individually and as
15 successor to Empire Asbestos
Co. and Ace Asbestos Mfg. Company;
16 FIBREBOARD CORPORATION,
individually and as successor
17 to Fibreboard Paper Products
Corporation, Pabco Products
18 Inc. and Plant, Rubber &
Asbestos Works, Inc.;
19 FLEXITALLIC, INC., formerly
Flexitallic Gasket Company,
20 Inc.;
21 THE FLINTKOTE COMPANY, individually
and as successor to Van
Packer Inc.;
22 FOSTER WHEELER CORPORATION;
23 GAF CORPORATION, individually
and as successor to the
24 Ruberoid Co. and Vermont
Asbestos Corporation;
GARLOCK, INC.;
25 GIAMBOI BROS., INC.;

1 GUYON GENERAL PIPING, INC.,
2 individually and as successor
3 to and formerly known as
4 Charles F. Guyon, Inc.;
5 HATZEL & BUEHLER, INC.;
6 H.H. ROBERTSON CO.;
7 H.K. PORTER COMPANY, INC.,
8 individually and as successor
9 to Southern Asbestos Company,
10 Carolina Asbestos Company and
11 Thermoid Company;
12 IMO INDUSTRIES,
13 individually and as successor
14 to, and formerly known as
15 De Laval Turbine,
16 Transamerica De Laval, and
17 IMO De Laval;
18 INDUSTRIAL INSULATORS CORP.;
19 INGERSOLL-RAND COMPANY;
20 INSULATION MATERIAL CORP.;
21 JANOS INDUSTRIAL INSULATION,
22 INC.;
23 J.H. FRANCE REFRACTORIES CO.,
24 INC.;
25 JOHN W. WALLACE & CO.;
KEENE CORPORATION, individually
and as successor to Ehret
Magnesia Mfg. Co.,
Baldwin Hill Co., Baldwin-
Ehret-Hill Co., Inc., Keene
Building Products Co.;
LIBERTY PIPE & BOILER COVERING
CO., INC.;
METROPOLITAN REFRACTORIES
COMPANY;
M.H. DETRICK COMPANY;
NATIONAL GYPSUM COMPANY individ-
ually and as successor to
Asbestos Ltd. and Smith
Asbestos Co. and alter ego
of and/or successor to
National Asbestos Mines, Ltd.;
NATIONAL INSULATION COMPANY;
ORANGE AND ROCKLAND UTILITIES, INC.;
OWENS-CORNING FIBERGLAS
CORPORATION;
OWENS-ILLINOIS INC.;
PFIZER, INC.;
PITTSBURGH CORNING CORPORATION.

1 PORTER HAYDEN COMPANY,
2 individually and as successor
3 to H.W. Porter and Co. and
4 Reid Hayden Co.;
5 PULMOSAN SAFETY EQUIPMENT
6 CORPORATION;
7 QUIGLEY COMPANY, INC.;
8 ROBERT A. KEASBEY COMPANY;
9 ROCKWOOL MANUFACTURING COMPANY;
10 SAFEGUARD INDUSTRIAL EQUIPMENT
11 CO.;
12 SCHAEDEL AND BEYER, INC.;
13 SOUTHERN TEXTILE CORPORATION,
14 division of H.K. Porter
15 Company;
16 STANDARD INSULATION CO.,
17 formerly Standard Asbestos
18 Co.;
19 STONE & WEBSTER, INCORPORATED;
20 THOMAS O'CONNOR & CO., INC.;
21 TODD SHIPYARD CORPORATION;
22 TREADWELL CORPORATION;
23 THE TRYBEE CO., INC.;
24 TRYBEE COMPANY, INCORPORATED;
25 TURNER & NEWALL, INC.,
individually and as successor
to and alter ego of Keasbey
& Mattison Company and Bell
Asbestos Mines, Ltd.;
UNIROYAL, INC.;
UNITED STATES MINERAL PRODUCTS
COMPANY, individually and as
successor to H.&A. Construction
Corp., Spraycraft Corp., Asbestos
Products Mfg. Corp., Asbestospray
Applicators, Inc. and Asbestospray
Corporation;
UNITED STATES GYPSUM COMPANY;
UNITED STATES RUBBER COMPANY,
INC.;
UNIVERSAL FABRICATED PRODUCTS
COMPANY;
VETERAN PIPE COVERING CO., INC.;
WILLIAM MERTEN, INC.;
WOLFF & MUNIER SERVICE COMPANY,
INC.;
WORTHINGTON CORPORATION;
W.R. GRACE & CO.-CONN, formerly
W.R. Grace & Co.,

1 individually and as successor
2 to Zonolite Corporation;
3 YORK INDUSTRIES CORP., formerly
4 York Insulation Company;
5 JOHN DOE 1 through JOHN DOE 75,
(fictitious);

Defendants.

6 TRANSCRIPT of the deposition of the witness,
7 called for Oral Examination in the above-captioned
8 matter, said deposition being taken pursuant to
9 Superior Court Rules of Practice and Procedure by and
10 before SANDRA A. PRASNAL, a Notary Public and Certified
11 Shorthand Reporter of the State of New Jersey, at the
12 law offices of WILENTZ, GOLDMAN & SPITZER, 90
13 Woodbridge Center Drive, Woodbridge, New Jersey, on
14 Friday, September 20, 1991, commencing at approximately
15 10:30 in the forenoon.

16 A P P E A R A N C E S:

17 WILENTZ, GOLDMAN & SPITZER, ESQS.
18 BY: CHRISTOPHER M. PLACITELLA, ESQ.
Attorneys for Plaintiffs

19 KELLEY, JASONS, McGUIRE & SPINELLI, ESQS.
20 BY: JOSEPH W. McGUIRE, ESQ.
Attorneys for Defendant, Owens-Corning Fiberglas and
21 Mr. Grimmie

22 McCARTER & ENGLISH, ESQS.
23 BY: ANDREW T. BERRY, ESQ.
Attorneys for Defendants, Owens-Illinois

1 A P P E A R A N C E S: (Cont'd)

2 ROBERT M. GRAHAM, P.A.

3 BY: ROBERT M. GRAHAM, ESQ.

4 Attorneys for Defendant, Charles Guyon, Inc. and Thomas
5 O'Connor

6 BRAFF, HARRIS & SUKONECK, ESQS.

7 BY: STEVEN W. GRILL, ESQ.

8 Attorneys for Defendant, Giamboi Brothers

9 MALOOF, LEBOWITZ & BUBB, ESQS.

10 BY: DONNA M. JENSEN, ESQ.

11 Attorneys for Defendant, Durabla Manufacturing Co.

12 PICILLO, BROMBERG & CARUSO, ESQS.

13 BY: ARTHUR D. BROMBERG, ESQ.

14 Attorneys for Defendant, Combustion Engineering and CCR

15 WATERS, MCPHERSON & MCNEILL, ESQS.

16 BY: GLENN FARRELL, ESQ.

17 Attorneys for Defendants, Wallace and Anchor Packing

18 PENNINGTON & THOMPSON, ESQS.

19 BY: CAROL T. TARGUM, ESQ.

20 Attorneys for Defendant, M.H. Detrick Company and
21 Treadwell Corporation

22 GARRITY, FITZPATRICK, GRAHAM, HAWKINS & FAVETTA, ESQS.

23 BY: ANTHONY J. MARINO, ESQ.

24 Attorneys for Defendant, Standard Insulation

25 STRYKER, TAMS & DILL, ESQS.

BY: WILMA M. KENNY, ESQ.

Attorneys for Defendant, Uniroyal

MEGARGEE, YOUNGBLOOD, FRANKLIN, CORCORAN, ESQS.

BY: THOMAS M. SAVON, ESQ.

Attorneys for Defendant, H.H. Robertson

MARKS, KENT & O'NEILL, ESQS.

BY: FRANCIS X. CANUSO, ESQ.

Attorneys for Defendant, Foster Wheeler Corporation

SHANLEY & FISHER, P.C.

BY: ANDREW P. SLOWINSKI, ESQ.

Attorneys for Defendant, Bechtel

1 A P P E A R A N C E S: (Cont'd)

2 WILSON, ELSEER, MOSKOWITZ, EDELMAN & DICKER, ESQS.
3 BY: LUIS L. HAQUIA, ESQ.
Attorneys for Defendant, Ingersoll-Rand

4 BORRUS, GOLDIN, FOLEY, VIGNUOLO, HYMAN & STAHL, ESQS.
5 BY: APHRODITE C. KOSCELANSKY, ESQ.
Attorneys for Defendant, Burns & Roe

6 CHASAN, LEYNER, TARRANT & LAMPARELLO, ESQS.
7 BY: MARK C. CURTIS, ESQ.
Attorneys for Defendant, Robert A. Keasbey Company

8 McELROY, DEUTSCH & MULVANEY, ESQS.
9 BY: MARCIA C. MAHAN, ESQ.
Attorneys for Defendant, U.S. Mineral Products

10 HOAGLAND, LONGO, OROPOLLO & MORAN, ESQS.
11 BY: RICHARD L. HESS, JR., ESQ.
Attorneys for Defendant, Janos Industrial Supply
12 Incorporated

13 STEVEN A. WEINER, ESQ.
14 BY: STEVEN A. WEINER, ESQ.
Attorneys for Defendant, Veteran Pipe Covering
Co., Inc.

15 CONNELL, FOLEY & GEISER, ESQ.
16 BY: KATHY CEHELSKY, ESQ.

-and-

17 GEORGE PARSELLS
Attorneys for Defendant, W.R. Grace and Bethlehem Steel

18 JOHN J. PRIBISH, ESQ.
19 BY: BENJAMIN S. BUCCA, JR., ESQ.
Attorneys for Defendant, IMO Industries

20 DONINGTON, KARCHER, LEROE, SALMOND, LUONGO, RONAN &
CONNELL, ESQS.
21 BY: JEFFREY KLUGER, ESQ.
Attorneys for Defendant, Safeguard Industrial Equipment
22 Company

23 VanDEVENTER, BLACK, MEREDITH & MARTIN, ESQS.
24 BY: ROBERT L. O'DONNELL, ESQ.
Attorneys for Defendant, Owens-Illinois

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1 R I C H A R D G R I M M I E,
2 202 First Avenue, West Berlin, New Jersey,
3 called as a witness, having been first
4 duly sworn according to law, testifies as
5 follows:

6 DIRECT EXAMINATION BY MR. PLACITELLA:

7 Q Good morning, Mr. Grimmie. How are you?

8 A Oh, getting older, I hope.

9 Q That's because you get better looking
10 every day.

11 A Yeah. Well, you flattered me. I'll tell you
12 how I feel. I just recently read that there's 1 lawyer
13 to every 300 of the population in the United States.

14 Q And --

15 A I feel flattered.

16 Q The statistics are higher in New Jersey.
17 It's frightening thought, isn't it?

18 A Yeah. When I look around.

19 MR. PLACITELLA: Mr. McGuire is here today
20 on behalf of Owens-Corning Fiberglas. Are you
21 representing -- in what capacity are you here
22 with respect to Mr. Grimmie,
23 Mr. McGuire?

24 MR. MCGUIRE: We're representing
25 Mr. Grimmie as well.

1 MR. PLACITELLA: As a former employee of
2 Owens-Corning Fiberglas?

3 MR. McGUIRE: Yes.

4 Q Mr. Grimmie, as you know, my name is Chris
5 Placitella and I'm here representing the plaintiffs in
6 these cases.

7 We're here today for the purpose of taking
8 your deposition.

9 You've had your deposition taken before,
10 correct?

11 A Yes.

12 Q And you've actually given trial testimony
13 in asbestos cases before, correct?

14 A One.

15 MR. McGUIRE: Let's clarify that. He gave
16 trial testimony in a single case in 1979, if I
17 remember correctly.

18 MR. PLACITELLA: Why don't you let him
19 answer the question, Mr. McGuire, and then if
20 he's having a problem with his memory, maybe you
21 can help him out?

22 A One case.

23 Q One case? And that was the McGrath case?

24 A Yes, sir.

25 Q Have you testified since the McGrath case,

1 in any asbestos case either by deposition or by trial?

2 A I believe it was after the McGrath case at my
3 deposition, was video-taped in Newark.

4 Q And was that involving Mr. Gavin? Do you
5 remember him?

6 A Yes, I remember Mr. Gavin.

7 Q So is it fair to say, you are pretty well
8 versed in the procedures of depositions?

9 A I believe so. Yes.

10 Q I'm going to ask you some questions today
11 that I ask you give answers to, to the best of your
12 ability.

13 If, for some reason, you don't understand
14 one of my questions, please let me know and I'll
15 attempt to rephrase it.

16 Do you understand that?

17 A Yes, sir.

18 Q If, for some reason, you don't know the
19 answer to the question, please tell me you don't know,
20 but if you are able to give your best estimate, please
21 do that. Okay?

22 A Yes, sir.

23 Q If, for some reason, your attorney should
24 object to a question that I ask, please don't answer
25 the question until such time as your attorney and I

1 have the opportunity to work out whatever differences
2 we might have.

3 A Yes, sir. May I make a statement?

4 Q Sure.

5 A I have what is known as a benign tremor.
6 Without control, my head may start going this way
7 (indicating). Please don't be offended or feel as if
8 I'm rejecting.

9 I'll answer -- if I have to answer in a
10 negative, I will answer verbally.

11 Q Fine. We're used to, as lawyers,
12 Mr. Grimmie, speaking in a large crowd and have most
13 people shake their head back and forth, so we wouldn't
14 offend them.

15 You are certainly 69 years of age?

16 A 69 is correct.

17 Q And do you still live in West Berlin, New
18 Jersey?

19 A Yes, sir.

20 Q You are retired?

21 A Yes, sir.

22 Q You are retired from Owens-Corning
23 Fiberglas?

24 A Yes, sir.

25 Q When did you retire?

1 A My last day of work was February 29, 1984. They
2 got me for an extra day.

3 Q And you're a former employee of both
4 Owens-Illinois and Owens-Corning Fiberglas. Is that
5 correct?

6 A Yes, sir.

7 Q One more instruction. I know that you
8 know what's going to come out of my mouth many times.

9 A I'll wait.

10 Q You have to wait.

11 Okay. I want to review with you briefly
12 your work history. Just in terms of chronology. In
13 1947 you went to work for Owens-Illinois. Is that
14 correct?

15 A Yes, sir.

16 Q And that was as a maintenance handyman?

17 A Yes, sir.

18 Q And what plant was that?

19 A Berlin, New Jersey.

20 Q How long did you spend as a maintenance
21 handyman in Berlin, New Jersey?

22 A Just a few months, as I recall.

23 Q What was the next job you had after that?

24 At this point it was -- strike that. Go
25 ahead.

1 What was the next job that you had?

2 A I believe it was pipe covering pourer.

3 Q Was that in 1948, approximately?

4 A Approximately, yes.

5 Q And what plant were you working at, the
6 Sayreville plant at that time for Owens-Illinois?

7 A I went to the Sayreville plant to help them get
8 the plant started. I believe it was 19 -- right after
9 the new year, 1948.

10 Q Well, let me ask you this: When you
11 worked as a pipe coverer pourer, was that at Berlin?

12 A Berlin.

13 Q And then at some point after you worked as
14 a pipe coverer pourer, you went to Sayreville to help
15 train men?

16 A Yes.

17 Q In what capacity did you go there in?

18 A Just hourly employee.

19 Q Did you have a title at that point?

20 A No, I didn't.

21 Q Was this in 1948 when you went to
22 Sayreville?

23 A I believe it was 1948.

24 Q What did you do when you went to
25 Sayreville specifically in 1948 for Owens-Illinois?

1 A I helped familiarize the new employees with the
2 operation of any equipment that was at Sayreville that
3 I was familiar with at the Berlin plant.

4 Q How long were you there at Sayreville?

5 A Approximately eight months.

6 Q And what kind of products were they making
7 at the Sayreville plant at that time?

8 A Calcium silicate insulation.

9 Q Was that known as a Kaylo insulation?

10 A Kaylo is the trade name.

11 Q Were they making pipe covering there as
12 well as door material?

13 A No, sir.

14 Q What were they making?

15 A Flat block.

16 Q And in 1949 did you go back to Berlin?

17 A Yes, sir.

18 Q And were you there as a personnel
19 assistant?

20 A Eventually, yes.

21 Q And when did you become personnel
22 assistant at the Berlin plant?

23 A I believe it was prior to 1953.

24 Q What did you do between 1949 and say 1951?
25 What was your job for Owens-Illinois?

1 A Well, I think during that period of time I was a
2 batch mixer, and I may have worked in the finishing
3 department for a short period of time.

4 Q What specifically did you do in the
5 finishing department, if you can recall?

6 A If I recall, I was -- I was a stripper.

7 Q What did a stripper do?

8 A Take ware off of a ware car and put it in a
9 container so it could be moved around.

10 Q And in 1951 did you become a shift
11 supervisor at Berlin?

12 A I believe somewhere in that time frame.

13 Q And after that did you take the job in the
14 latter part of 1951 as a personnel assistant?

15 A Yes.

16 Q And did you have that job until
17 approximately 1952?

18 A Approximately. These times are --

19 Q I'm asking for your best approximation.

20 MR. BERRY: Let him finish.

21 Q Are you done?

22 MR. BERRY: Do you want to finish your
23 answer?

24 A I believe it was in that time frame.

25 Q And, again, were you working at Berlin at

1 this time?

2 A Yes, sir.

3 Q From 1952 to 1954 did you work as a
4 production supervisor at Owens-Illinois Berlin plant?

5 A I believe it was in that time frame, yes.

6 Q And from 1954 to 1956 did you work as a
7 personnel supervisor for Owens-Illinois?

8 A I never heard the term "personnel supervisor."
9 But personnel director.

10 Q Okay. You were a personnel director from
11 '54 to '56?

12 A I believe in that time frame, yes.

13 Q And was that also at the Berlin plant?

14 A Yes, sir.

15 Q From 1956 until 1961, was your job a
16 production supervisor?

17 A Yes, sir.

18 Q Now, during that period of time, is my
19 understanding correct that Owens-Corning Fiberglas
20 purchased the Kaylo operation from Owens-Illinois?

21 A The period of time that we've been talking
22 about?

23 Q During the time period '56 to '61 when you
24 were production supervisor, at some point during that
25 time period?

1 A Yes, sir.

2 Q Was that 1958?

3 A I believe so. Yes. May 1st.

4 Q Now, are you aware of, prior to 1958 what
5 the relationship was between Owens-Illinois and
6 Owens-Corning Fiberglas, if any?

7 A Yes, sir.

8 Q What was that?

9 A I believe Owens-Corning Fiberglas took over the
10 national distribution, sales and marketing for the
11 Kaylo product.

12 Q And when was that?

13 A I don't --

14 Q Some time in early 1950s?

15 A I believe it would have been early or mid '50s.

16 Q Are you aware as to whether Owens-Illinois
17 had any ownership interest in Owens-Corning Fiberglas
18 prior to the purchasing of the Kaylo facility?

19 A Your question is in Owens-Corning Fiberglas?

20 Q That's correct.

21 A I believe Owens-Illinois was a stockholder in
22 Owens-Corning Fiberglas.

23 Q And do you know whether the two shared any
24 common officers or directors, that is, Owens-Illinois
25 and Owens-Corning Fiberglas?

1 A I have no knowledge of that.

2 Q Now, in 1961 did your job change from
3 production supervisor to personnel director?

4 A I believe so. Yes.

5 Q How long did you have that job, personnel
6 director for Owens-Corning Fiberglas?

7 A There was a period of time that I had two
8 departments. I was production manager and personnel
9 manager. I think that was for about a period of 12, 14
10 years.

11 Q Some time until the early 1970s?

12 A I believe so. Yes.

13 Q And in the early 1970s, did your job
14 change again for Owens-Corning Fiberglas?

15 A Well, I believe it was during that time period
16 that a new production manager was brought in and I went
17 exclusively to the personnel department.

18 Q And what was your title in the personnel
19 department?

20 A Personnel manager.

21 Q And did you retire from that position?

22 A Yes, I did.

23 Q The operations that you were involved with
24 at Owens-Illinois, did that involve exclusively with
25 the one exception you spoke about concerning

1 Sayreville, the Owens-Illinois Kaylo plant in Berlin,
2 New Jersey?

3 MR. BERRY: Object to the form of the
4 question.

5 Q You can answer.

6 A Yes, sir.

7 Q And the operations that you were involved
8 in when you worked for Owens-Corning Fiberglas, was
9 that exclusively the Kaylo plant in Berlin, New Jersey?

10 A Yes, sir. In 1948 when I went to Sayreville,
11 that was Owens-Illinois.

12 Q Okay. You told us one time about when you
13 went to Owens-Illinois Sayreville to do some training?

14 A Yes.

15 Q Did you visit the Sayreville plant at any
16 time other than that one five or six-month period where
17 you did the training in 1948 of Owens-Illinois
18 personnel?

19 A Yes, sir.

20 Q When was that?

21 A Oh, I don't remember. It was after I went back
22 to my job at Berlin, I went back up to Sayreville for a
23 visit.

24 Q And was that in your work capacity or a
25 social visit?

1 A It was not in my work capacity. At the time I
2 was an officer in the local union and I went up to
3 visit the local up there.

4 Q Other than that one time, were there any
5 other times?

6 A Not that I recall.

7 Q Okay. Now, would you agree with me that
8 while you worked at Owens-Illinois, Owens-Illinois was
9 concerned about the health and welfare of the employees
10 in its plants?

11 A Yes, sir.

12 Q And would you agree with me that while you
13 worked with Owens-Corning Fiberglas, they were
14 concerned about the health and welfare of the employees
15 in its Kaylo plant?

16 A Yes, sir. I agree with that.

17 Q Is it fair to say that as part of your
18 responsibilities from '51 until the time you retired,
19 you were involved with the implementation or
20 enforcement of safety programs at the plant?

21 A Yes, sir.

22 Q And that was for both Owens-Illinois and
23 Owens-Corning Fiberglas, correct?

24 A Yes, sir.

25 Q So from when you became a shift supervisor

1 in 1951, that was part of your responsibility and
2 continued to be part of your responsibility until the
3 time you retired?

4 A Yes, sir.

5 Q Now, I believe you previously indicated in
6 other testimony that you became aware of the disease,
7 asbestosis, in approximately 1947. Is that correct?

8 MR. BERRY: Object to the form of the
9 question. Are you asking him whether he recalls
10 his prior testimony or is that true or not?

11 Q Let me ask the question this way: Is it
12 true that you became aware of the disease, asbestosis,
13 some time in 1947?

14 A Yes, sir, I believe so.

15 Q And did you know at that time that it was
16 a disease caused by inhaling asbestos dust?

17 A I believe so. Yes, sir.

18 Q And you learned about that disease,
19 asbestosis, at the Owens-Illinois plant?

20 A I don't know that for sure.

21 Q All right. Where do you believe you first
22 learned about the disease, asbestosis; from what
23 source?

24 A Well, I really don't know. I may have heard of
25 it before then but around 1947 is the first

1 recollection I have of it.

2 Q Was it known to the management at the
3 Owens-Illinois plant, the disease, asbestosis, when you
4 got there in 1947?

5 MR. BERRY: Object to the form.

6 A I don't know.

7 Q You knew that there was asbestos fiber in
8 Kaylo, correct?

9 A Yes.

10 Q And you knew that, that was harmful if it
11 got into your lungs. Is that correct?

12 MR. McGUIRE: Objection to the form of the
13 question. I think you have to specify in what
14 quantities and under what circumstances.

15 MR. PLACITELLA: All right.

16 Q Is that correct, sir, you knew that if the
17 asbestos in Kaylo was breathed, that it could get into
18 your lungs and could injure your lungs?

19 MR. BERRY: Objection on competency
20 grounds.

21 Q You can answer.

22 A Yes, sir.

23 Q That's something you knew, correct?

24 A That's something that I understood to be.

25 Q Okay. And were you aware in 1947 that the

1 asbestos that was put into Kaylo was toxic to the human
2 body.

3 MR. BERRY: Object to the form of the
4 question.

5 MR. McGUIRE: Object to the form of the
6 question, toxic as to non-toxic form.

7 MR. PLACITELLA: You can object to the
8 form.

9 Q Is that a fair statement, sir?

10 MR. McGUIRE: Do you know what "toxic"
11 means, sir?

12 A Explain toxic to me.

13 Q All right.

14 MR. PLACITELLA: Mr. McGuire, if you want
15 to ask questions later on, that's all perfectly
16 well and good.

17 These are terms used by
18 Owens-Illinois and Owens-Corning Fiberglas
19 concerning their products and I think that
20 they're fair questions and I wish you would let
21 him answer the question.

22 Q Do you understand what "toxic" means,
23 Mr. Grimmie?

24 A I understand toxic to mean something that would
25 be harmful.

1 Q All right. And if someone told you a
2 product was non-toxic, would that mean to you, sir,
3 that they were telling you the product was not harmful?

4 A That's what that would mean to me.

5 MR. McGUIRE: Objection to the question.

6 Q Would that understanding have been any
7 different in 1950 when you worked for Owens-Illinois?

8 MR. BERRY: Object to the form of the
9 question.

10 A In 1950 when I worked for Owens-Illinois?

11 Q Yes.

12 A No.

13 Q Would have been the same?

14 A Yes.

15 Q Would it have been a fair statement by
16 Owens-Illinois, given your knowledge at the time, to
17 say that Kaylo was a non-toxic product?

18 MR. BERRY: Objection to the form of the
19 question.

20 MR. McGUIRE: Objection to the form of the
21 question, beyond the competency of the witness.
22 Furthermore, you are asking for an opinion.

23 Q Based upon what your knowledge was at the
24 time as part of the management of Owens-Illinois, would
25 it be a fair statement to say that Kaylo was a

1 non-toxic product?

2 MR. BERRY: Same objection.

3 MR. MCGUIRE: I have to object because I
4 think it's unfair. This witness is brought here
5 to testify as to his knowledge and what he may
6 know, but to ask him whether it's fair, that
7 someone else may have characterized something in
8 a different way, I don't see how this witness
9 can answer, unless you can rephrase the question
10 as to something that lays within his competence.
11 I don't see how he can answer it.

12 Q If you were to characterize Kaylo in 1951,
13 Mr. Grimmie, would you have told customers it was
14 non-toxic?

15 MR. BERRY: Same objection.

16 A Kaylo? Yes, I would have told them it's
17 non-toxic.

18 Q Non-toxic?

19 A Yes.

20 Q Why?

21 A Kaylo is an insulating product, and you're
22 asking me about Kaylo, not the contents of Kaylo?

23 Q Right.

24 A In my opinion, Kaylo is not a dangerous product.

25 Q And why is that?

1 A Well, it's primarily because in its form it
2 doesn't give off any -- once it's trimmed and packaged,
3 there's no dust involved. It's not going to leap up
4 and grab you by the throat.

5 Q So when you trim and package it -- when
6 you trim it, dust is involved; is it not?

7 A Yes.

8 Q Okay. And if you saw it, dust is
9 involved; is it not?

10 MR. McGUIRE: Objection to form of the
11 question. I think the witness is talking about
12 the manufacturing process and unless you mean
13 for him to be answering in terms of something
14 other than the trimming and sawing in the
15 manufacturing process, I'm going to object that
16 the witness has no foundation to understand or
17 to answer as to anyone else who may be trimming,
18 cutting or sawing.

19 Q Let me ask the question this way,
20 Mr. Grimmie: When the Kaylo product was trimmed and in
21 the factory the ends were trimmed as part of the
22 production process, correct?

23 A Yes.

24 Q And that released asbestos fiber, did it
25 not?

1 A Yes.

2 Q And in that context, would you say that
3 Kaylo was non-toxic, sir?

4 MR. BERRY: Object to the form of the
5 question.

6 A Well, it's very awkward because obviously you
7 don't understand the process at the Berlin plant and I
8 would have to say, if asbestos is toxic and if the
9 product went through the sawing process and if the dust
10 was not captured in the dust collector from a pick-up
11 hood, then, yes, it's possible that there could have
12 been a toxic substance in the air.

13 Q Okay. That's fair enough.

14 MR. MCGUIRE: Before we proceed,
15 can we get a stipulation on the record that the
16 objection by any one counsel will be deemed to
17 be effective as to any other party here so that
18 we don't have a chain of people, perhaps,
19 repeating each other's objections?

20 MR. PLACITELLA: Well, I don't have a
21 problem with that, except the only two
22 objections I've heard so far is by yourself so
23 far and Mr. Berry.

24 MR. MCGUIRE: That's specifically what I'm
25 referring to.

1 MR. BERRY: I haven't objected to a thing
2 Mr. McGuire said.

3 Q You are aware, are you not, that
4 Owens-Illinois was involved in a five-year study on the
5 effects of asbestosis with the Saranac Laboratory?

6 A No, sir.

7 Q You are not aware of that?

8 A No, sir. I'm not aware of the fact that it was
9 a five-year study on asbestosis.

10 Q Mr. Grimmie, I'm going to read to you from
11 page 75 of your testimony, trial testimony in the
12 McGrath case, you recall giving that, don't you?

13 MR. MCGUIRE: Give us just a second,
14 please, counsel?

15 MR. PLACITELLA: Sure.

16 MR. MCGUIRE: Which day?

17 MR. PLACITELLA: October 24, 1979.

18 MR. MCGUIRE: 75, was it?

19 MR. PLACITELLA: That's correct.

20 Q You do recall testifying in that case, I
21 think you told us before, correct, Mr. Grimmie?

22 A Yes.

23 Q On page 75, starting at line 14, I'm going
24 to read it to you to see if it refreshes your memory,
25 okay?

1 "Have you ever heard of Saranac
2 Laboratories or the Trudeau Institute?

3 ANSWER: Yes, sir."

4 Page 76: "When did you first hear of these
5 people?

6 ANSWER: Very early in my work career. I
7 would say '47 or '48.

8 QUESTION: Okay. That was in what regard?

9 ANSWER: I heard that there was" --

10 MR. BERRY: Objection. Would you reread
11 that?

12 Q "I heard that there was" --

13 MR. BERRY: How do you spell that?

14 Q "I hear that there was a Saranac
15 Laboratory that had been retained to conduct a
16 five-year study for Owens-Illinois on the effects of
17 asbestosis to the lung area."

18 Do you recall giving that testimony,
19 Mr. Grimmie?

20 A Yes, sir. I stand corrected.

21 Q Okay. Thank you.

22 MR. McGUIRE: Can we agree for the record,
23 that the testimony in question is referring to
24 information given to him as distinguished from
25 his personal knowledge at/or about the time?

1 MR. PLACITELLA: I will note that and you
2 can do that on your portion of this deposition,
3 sir, because I don't think that's what the
4 report reflects.

5 MR. BERRY: Can we generally agree that
6 the witness said hear --

7 MR. PLACITELLA: If you mean, we know
8 hear and heard?

9 MR. BERRY: Yes.

10 MR. PLACITELLA: I'm sure it reflects
11 exactly as you corrected me Mr. Berry. I'm sure
12 if I make any correction during this deposition,
13 I think you will correct me.

14 MR. BERRY: I'd like to think
15 they're inadvertent.

16 MR. PLACITELLA: I would hope that that's
17 what you would think, unless proven otherwise.

18 MR. GRAHAM: Gentlemen, I don't want to pay
19 for these comments on the record.

20 (Discussion off record.)

21 Q You are aware, sir, are you not, that as a
22 result of those experiments at the Saranac
23 Laboratories, that certain reports were generated to
24 the Owens-Illinois Company from Saranac?

25 A Yes, sir.

1 Q And are you aware, sir, that as a result
2 of those experiments, the Saranac Laboratory informed
3 Owens-Illinois that Kaylo was capable of causing
4 asbestosis?

5 MR. BERRY: Object to the form of the
6 question.

7 MR. McGUIRE: Objection to the form of the
8 question. I don't think you laid a foundation
9 here, either.

10 MR. PLACITELLA: All right.

11 Let me have this document
12 marked first.

13 Q And I'll show it to your attorney before I
14 ask you questions about it.

15 MR. PLACITELLA: It's a November 16, 1948
16 letter from Arthur J. Vorwald to Mr. U.E. Bowes.

17 (The above-mentioned document is marked as
18 P-1 for Identification.),

19 MR. PLACITELLA: Mr. McGuire, you are
20 familiar with this letter.

21 MR. McGUIRE: This will be exhibit which?

22 MR. PLACITELLA: P-1.

23 MS. TARGUM: May I ask that the exhibits
24 be attached to the transcript?

25 MR. PLACITELLA: No problem.

GRIMMIE - Direct

33

1 MR. MCGUIRE: Okay.

2 Q I'll let you take a look at that for a
3 second, Mr. Grimmie.

4 (Witness reviewing document.)

5 Q Have you seen that document before?

6 A I have no recollection of seeing any documents
7 from Trudeau. And let me explain, that I have had a
8 massive number of documents shoved in my face --

9 Q I don't want to shove anything in your
10 face.

11 MR. BERRY: Let him finish.

12 A -- at trial and deposition, so if I answer no,
13 I'm answering during my work period.

14 Q I'll clarify that.

15 This is not going to be tricky.

16 A I have no recollection.

17 Q Okay. While you worked at Owens -- let me
18 ask you some questions first.

19 Do you know Mr. who Mr. Bowes was?

20 A U. E. Bowes?

21 Q Yes.

22 A I think he was --

23 MR. MCGUIRE: If you know.

24 THE WITNESS: Hum?

25 MR. MCGUIRE: If you know.

1 A I don't know what his title was. I've heard the
2 name.

3 Q Would it refresh your memory if I told you
4 he was a director of research for Owens-Illinois in
5 1948?

6 A I wouldn't dispute that.

7 Q Do you know who Mr. Dayton was at that
8 time? D-a-y-t-o-n.

9 A I have no recollection of that.

10 Q Are you aware that in 1948 Mr. Bowes also
11 served on the board of directors of Owens-Corning
12 Fiberglas?

13 A I have no recollection of that.

14 Q I'm going to read for the record and show
15 you the last paragraph of this letter, sir.

16 MR. MCGUIRE: Before we do that, I'm going
17 to enter an objection. The witness already said
18 that during the time of his employment he did
19 not see this letter and, therefore, I'm at a
20 loss to understand how reading the document into
21 the record is intended to do anything here.

22 If the witness is going to be asked
23 to give his reaction in the 60 Minute style, I'm
24 going to object in advance. But since the
25 document is being attached to the record, I fail

1 to see the point of reading it, but, of course,
2 you are free to do that.

3 MR. PLACITELLA: I'm flattered at your
4 objection that you would think that my
5 questioning is akin to Mr. Wallace's, but, in
6 any event, I am going to go through some of the
7 these documents with him and your objection is
8 noted for the record.

9 MR. BERRY: You think it was morally
10 safe on a bad day?

11 MR. PLACITELLA: I thought we had
12 an agreement, Mr. Berry, objection for one
13 was an objection for all?

14 Q The last paragraph says, "I realize that
15 our findings regarding Kaylo are less favorable than
16 anticipated. However, since Kaylo is capable of
17 producing asbestosis, it is better to discover it now
18 in animals rather than later in industrial workers.
19 Thus the company, being forewarned, will be in a better
20 position to institute adequate control measures for
21 safeguarding exposed employees and protecting its own
22 interest."

23 I'll put this in front of you,
24 Mr. Grimmie, and ask you if that information was ever
25 conveyed to you by Owens-Illinois in 1948 when you were

1 working for them?

2 MR. BERRY: Object to the form of the
3 question.

4 Q The information contained in the last
5 paragraph that I've read to you?

6 MR. BERRY: The same objection. It's
7 an incomprehensible question with respect --

8 MR. MCGUIRE: Objection --

9 MR. PLACITELLA: An objection for one is
10 an objection for all. Mr. McGuire, there's no
11 reason to make any speeches.

12 Let the witness answer his question.

13 MR. MCGUIRE: I understand that. And I
14 don't mean to repeat Mr. Berry's objection or to
15 suggest that he might have omitted something.
16 But --

17 MR. PLACITELLA: Mr. Berry doesn't make
18 mistakes.

19 MR. BERRY: Frequently.

20 MR. MCGUIRE: But my puzzlement
21 here is as to whether you are asking the witness
22 whether this letter was given to him, the
23 portion you read or whether, in fact, to his
24 knowledge, the company was applying the
25 precautions referred to by the Saranac

1 Laboratory and, therefore, I think any answer he
2 gives will add that qualification and it might
3 be extremely misleading on the story of the
4 incomplete record we have.

5 MR. PLACITELLA: All right. Are you done?

6 MR. MCGUIRE: Yes.

7 MR. PLACITELLA: Okay. Thank you.

8 Q Let me back up for a second, Mr. Grimmie,
9 so no one accuses me of playing tricks here, okay?

10 We've established that that document was
11 never given to you by Owens-Illinois or a copy of that
12 document while you worked for them, correct?

13 A Correct.

14 Q And am I also correct that, Owens-Corning
15 Fiberglas never gave you a copy of that document
16 either?

17 A Correct.

18 Q My question to you is: The information
19 contained in that last paragraph about what was found
20 by the Saranac Laboratory, was that communicated to you
21 verbally or in any other memoranda by Owens-Illinois
22 during the time you worked for them?

23 MR. BERRY: Objection.

24 A That's an unfair question.

25 Q I'm sorry, sir, but I wish you answer it.

1 A No.

2 Q It wasn't communicated, correct?

3 A Not the way you put it.

4 Q Was anything communicated to you,
5 Mr. Grimmie, by Owens-Illinois concerning the results
6 of the experiments at the Saranac Laboratory?

7 MR. BERRY: I object to the form of the
8 question. Saying are unfair, they are unfair.
9 I would ask that you be precise about pieces of
10 information.

11 Q You can answer the question, Mr. Grimmie.

12 A Well, the way you put the question, I'm going to
13 have to answer no.

14 MR. McGUIRE: Is there another way the
15 question should be put?

16 MR. PLACITELLA: Sir, I'll ask the
17 questions, please.

18 A You know, I feel like a bride here. I know I'm
19 going to get something, I don't know how hard it's
20 going to be or how long, but you guys are battling back
21 and forth here, I'm up here trying to help.

22 Q I appreciate that, sir.

23 MR. BERRY: As do we all.

24 Q I'm just trying to do my job, so is your
25 lawyer.

1 Let me ask you the question again. Was
2 any information communicated to you by anyone at
3 Owens-Illinois concerning the results of the
4 experiments at the Saranac Laboratory on asbestosis in
5 animals?

6 MR. BERRY: Object to the form of the
7 question.

8 A Sir, I don't know if it was as a result of
9 reports from Saranac Lab., but certainly there was
10 information passed on, on the safety of the employees
11 in the plant.

12 Q I understand that, and I'll get to that.
13 I'm asking you a specific question. Did any of the
14 management at Owens-Illinois ever talk to you about the
15 results of the experiments at the Saranac Laboratories?

16 A No, sir. Not to my recollection.

17 Q Did any of the management at
18 Owens-Illinois ever communicate to you the information
19 that was contained in the last paragraph of that letter
20 that I read to you?

21 MR. BERRY: Object to the form of the
22 question.

23 A No, sir.

24 MR. McGUIRE: Let me object to the
25 question.

1 MR. PLACITELLA: It's already been
2 answered.

3 MR. MCGUIRE: What information are we
4 talking about? Are we talking about the
5 adequate control measures?

6 MR. PLACITELLA: You know what? I'll go
7 through it one at a time, Mr. McGuire, just so
8 you don't think I'm being unfair anyway.

9 Q Let's take one sentence at a time to
10 attempt to keep you out of the wedding party and in a
11 deposition. Okay, Mr. Grimmie?

12 A Yes.

13 Q Was it ever indicated that Kaylo was
14 capable of producing asbestosis? Was that indicated to
15 you by anyone at Owens-Illinois?

16 A Yes.

17 Q And when was the first time that was
18 communicated to you?

19 A I have no recollection of the time period.

20 Q Was that communicated to you prior to
21 1950?

22 A I believe so. Yes.

23 Q So I understand correctly then, management
24 at Owens-Illinois told you that Kaylo was producing --
25 is capable of producing asbestosis prior to 1950?

1 MR. BERRY: Objection to form.

2 MR. McGUIRE: Objection.

3 A No, sir, that's not the way it was. They told
4 me that asbestos is capable of producing asbestosis.

5 Q All right. My question to you, sir, is --
6 please listen to it carefully because I'm going from
7 what's in this letter, that's what your lawyer would
8 like me to do -- did they tell you that Kaylo is
9 capable of producing asbestosis?

10 MR. BERRY: Object to the form of the
11 question.

12 MR. McGUIRE: I object. I think you are
13 being repetitive. The witness is talking about
14 atmosphere in the plant. He's trying to answer
15 your question.

16 If we're saying that they used the
17 word "asbestosis" instead of the word "Kaylo," I
18 think maybe we're quibbling.

19 If the witness is able to understand
20 the question, he can go ahead and answer.

21 MR. PLACITELLA: Mr. McGuire, just so I'm
22 clear, are you telling me that Kaylo was
23 synonymous with asbestos in understanding of
24 this document?

25 MR. McGUIRE: No. I think what we're

1 trying to do is make sure the witness is
2 testifying as to his recollection.

3 MR. PLACITELLA: I think, Mr. McGuire,
4 you're trying to disrupt this deposition to the
5 best of your ability. That's what I think you'd
6 like to do.

7 What I'd like to do, Mr. McGuire, is
8 let the witness answer the question and get to
9 the truth. I'm not sure how things are
10 conducted in South Jersey and Philadelphia
11 when depositions are taken but in Middlesex
12 County we try to get to where we're going by
13 asking fair questions. And I don't think,
14 frankly, that your objections are fair and the
15 only thing you're doing is attempting to
16 obstruct every question I ask of this witness
17 and I ask that you stop it as soon as possible.

18 MR. MCGUIRE: Okay. I'd just like to
19 briefly point out that the witness plainly is
20 trying to explain to you that the company was
21 taking precautions and you're phrasing questions
22 out of the letter in a way that are designed to
23 have him answer questions in the negative as if
24 there were no precautions being taken and I'm
25 very concerned.

1 I don't know about Middlesex County
2 but most of the other states that I practiced in
3 really try to focus on the search for the truth
4 rather than simply getting a witness to give an
5 answer that's going to be helpful or favorable
6 and that's the entire spirit in which we have
7 cooperated to produce Mr. Grimmie here and he's
8 prepared to answer all of your questions, but he
9 does mean to try to explain answers that are
10 truthful and accurate rather than being
11 misleading.

12 If that's a problem, then so be it.
13 We're here to cooperate.

14 MR. PLACITELLA: Mr. McGuire, I'm
15 perfectly willing to state that Mr. Grimmie is
16 trying to be cooperative. The problem is you
17 are not letting him be. So if you just let him
18 answer the question, maybe we could finish his
19 deposition today, sir, okay?

20 MR. MCGUIRE: Fine.

21 Q Let me ask the question again, please.
22 Were you told in 1948 by Owens-Illinois
23 that Kaylo was capable of producing asbestosis?

24 MR. BERRY: Object to the form of the
25 question. Witness has already answered it?

1 THE WITNESS: May I answer?

2 MR. MCGUIRE: Sure.

3 A I'm not sure it was 1948 but, yes, I was told
4 that the asbestos in Kaylo would cause asbestosis.

5 Q All right. And just so I understand your
6 answer. Are you telling me that if asbestos was
7 released from Kaylo when it was either cut or packaged
8 that, that was capable of causing asbestosis? Is that
9 what you are saying?

10 MR. BERRY: Object to the form of the
11 question.

12 A I knew that. Yes, sir.

13 Q And would you agree with me that you knew
14 that from the people at Owens-Illinois prior to 1950?

15 MR. BERRY: Object to the form of the
16 question.

17 A I believe so. Yes, sir.

18 Q I will promise you, Mr. Grimmie, we will
19 get into the control measures later on, and if I don't,
20 I'm sure your attorney will tell me that I have not,
21 okay?

22 MR. MCGUIRE: Can I see the exhibits a
23 moment, please?

24 (Hanging).

25 Q Is it my understanding, Mr. Grimmie, that

1 certain control measures were taken by Owens-Illinois
2 to prevent asbestosis from resulting from cutting and
3 packaging Kaylo?

4 MR. BERRY: Object to the form of the
5 question.

6 A I'm going to maybe elaborate a bit. The answer
7 is, we had dust collecting systems in the plant to
8 gather, capture all forms of dust.

9 Q Okay. I promise you I'm going to give you
10 all the opportunity --

11 MR. MCGUIRE: Let him finish the answer.

12 MR. PLACITELLA: He is done.

13 Q I promise I'm going to give you all the
14 opportunity in the world to explain that. If I don't,
15 tell me when the deposition is over.

16 MR. BERRY: You can tell him in the course
17 of the deposition if you want, Mr. Grimmie.

18 MR. PLACITELLA: I'd like to have this
19 marked as P-2.

20 Q I'm going to show you what's been marked
21 P-2 and I'll ask that your attorneys take a look at it
22 first. I'm going to ask you some questions about it.

23 MR. PLACITELLA: I don't need objections
24 from you, Mr. McGuire, until I ask the first
25 question.

1 MR. PLACITELLA: P-2 for the record is the
2 October 30, 1948 interim report regarding the
3 biological activity of Kaylo dust to the
4 Owens-Illinois Glass Company by the Saranac
5 Laboratory.

6 (The above-mentioned document is marked as
7 P-2 for Identification.)

8 Q My question to you, Mr. Grimmie, is:
9 During the time that you worked for Owens-Illinois were
10 you ever shown a copy of this report?

11 A No, sir. I don't have to look at it because I
12 have no recollection of any report being shown to me.

13 Q During the time you worked for
14 Owens-Corning Fiberglas was this report shown to you?

15 A No, sir.

16 Q I'm going to show you a portion of this
17 report contained on page 3, which I've highlighted.
18 I'm going to read it first so the attorneys in the room
19 know what it says and then I'm going to ask you some
20 questions about it, okay?

21 The third full paragraph on page 3, the
22 following statement appears, "It is evident, therefore,
23 that a considerable portion of the asbestos component
24 in Kaylo remains unchanged during the manufacturing
25 process or, if it is changed, that the altered product

1 maintains its capacity to cause fibrosis."

2 My question to you: Was that your
3 understanding as of 1948 concerning the properties of
4 Kaylo, Mr. Grimmie?

5 A I had no knowledge of that, that breaking down
6 or whatever you are saying. I knew I had been told
7 that asbestos was harmful --

8 Q Okay.

9 A -- if inhaled and it lodged in the lungs.

10 Q Were you ever told that somehow the
11 asbestos was changed some way during the manufacturing
12 process?

13 A I have no recollection of that.

14 Q Was it your understanding that even after
15 Kaylo was manufactured, that when, for instance, in the
16 trim sawing when you cut it, asbestos fibers would be
17 released?

18 MR. BERRY: Object to the form of the
19 question.

20 MR. McGUIRE: Object to the form of
21 question. You are saying after it was
22 manufactured and you're describing --

23 MR. PLACITELLA: During the manufacturing
24 process.

25 MR. McGUIRE: Okay.

1 A It was my understanding that dust would be
2 released from the trim saw process?

3 Q Would that include the asbestos dust that
4 was contained in it?

5 A I would make an assumption and say yes.

6 MR. BERRY: Objection.

7 Q All right.

8 A It would be logical, wouldn't it?

9 MR. BERRY: Mr. Placitella certainly
10 doesn't want you to assume anything,
11 Mr. Grimmie.

12 Q Were you aware during the time that you
13 worked for Owens-Illinois, that Owens-Illinois was
14 aware of other studies conducted at the Saranac
15 Laboratories that were sponsored by companies other
16 than Owens-Illinois?

17 MR. BERRY: Object to the form of the
18 question.

19 A Would you please repeat that?

20 Q Sure. We've just discussed studies
21 concerning the Kaylo product and animal studies at the
22 Saranac Laboratory, correct?

23 A Yes, sir.

24 Q Are you aware that during the time that
25 those studies were going on, the Saranac Laboratory was

1 doing other studies for other asbestos companies?

2 MR. BERRY: Object to the form of the
3 question.

4 A No, I'm not aware of that.

5 MR. BERRY: Object to the
6 characterization. Owens-Illinois was not an
7 asbestos company, it was a glass product
8 company.

9 MR. PLACITELLA: Mr. Berry, I think that's
10 been litigated sufficiently. We don't have to
11 go into that at this point.

12 MR. BERRY: Every time you make a mistake,
13 I'm obliged to correct you Mr. Placitella.

14 MR. PLACITELLA: Certainly we have
15 disagreements with what are mistakes and what
16 are not.

17 Q Did you know in 1948 -- I'm going to read
18 from page five, last paragraph -- that, certain
19 investigations have indicated that a seemingly
20 negligible proportion of fibrous asbestos is sufficient
21 to produce the characteristic reaction of asbestosis?

22 MR. BERRY: I object to the form of the
23 question. I object in the manner of proceeding.
24 The witness has said he doesn't recall the
25 document. The incorporation of reference to the

1 document adds absolutely nothing.

2 If you want to ask him if he
3 knew specific facts or information, then ask
4 him.

5 MR. PLACITELLA: I think that's what I
6 did.

7 MR. BERRY: The reference to the document
8 seems to me to add nothing when the witness has
9 not seen the document in the ordinary course.

10 MR. MCGUIRE: Do you know what this is
11 about?

12 THE WITNESS: I would like to hear the
13 question again.

14 No, I don't know.

15 Q Can I ask you the question again?

16 A Please.

17 Q Okay. Thank you very much.

18 Were you aware in 1948 or any time while
19 you worked for Owens-Illinois, that seemingly
20 negligible proportion of fibrous asbestos is sufficient
21 to produce the characteristic reaction of asbestosis?

22 MR. MCGUIRE: I got to enter a different
23 objection here. You've now changed it.

24 We thought the question was, was he
25 aware that the Saranac Laboratories report that.

1 He never saw that it actually says this.

2 I have to further object that you're
3 now making a representation here, which I don't
4 understand how this witness could know what the
5 Saranac Laboratory was doing.

6 MR. PLACITELLA: Mr. McGuire, it's getting
7 a little silly. You just told me I couldn't
8 reference the document. So when I didn't, you
9 objected when I didn't reference the document.

10 Why don't we just let him answer the
11 question and then I'll proceed?

12 MR. MCGUIRE: Well, maybe we should
13 instruct him not to answer.

14 MR. PLACITELLA: Maybe you should do that.
15 Maybe we'll make a telephone call, Mr. McGuire,
16 to see if that question is proper or not and
17 maybe we'll relate to the court that I have
18 barely asked two questions in a row without an
19 objection by you.

20 Are you going to let him answer the
21 question or not?

22 MR. MCGUIRE: Sure. If he can.

23 A Well, I don't know what knowledgeable in this
24 case means.

25 Q So I understand, was it ever conveyed to

1 you by Owens-Illinois that it took a little bit of
2 asbestos to cause asbestosis?

3 MR. BERRY: Object to the form.

4 A No. I'm going to have to say I have no
5 recollection of "a little bit of asbestos."

6 Q Okay. Was it ever indicated to you by
7 Owens-Illinois that they were told by the Saranac
8 Laboratory that the studies that were done for Kaylo
9 was an example of a negligible proportion of fibrous
10 asbestos being able to cause asbestosis?

11 MR. BERRY: Object to the form of the
12 question. It's compound.

13 You can answer.

14 A I have no recollection of that.

15 Q Okay. Now, at some point in time did
16 Owens-Corning Fiberglas -- well, strike that.

17 At some point in time did Owens-Illinois
18 management ever inform you that asbestos was capable of
19 causing lung cancer?

20 A Owens-Illinois.

21 Q Owens-Illinois?

22 A Yes, sir, I believe so. Oh, no. No, I take
23 that back. No.

24 Q Not Owens-Illinois?

25 A Not Owens-Illinois.

1 Q At some point in time did Owens-Corning
2 Fiberglas management make you aware that asbestos was
3 capable of causing lung cancer?

4 A Yes, sir. After the newspaper article that I
5 read.

6 Q And when was that?

7 A I believe in the mid 1960s.

8 Q Were you aware, sir, that Owens-Illinois
9 was informed by at least 1957 that asbestos was capable
10 of causing lung cancer?

11 MR. BERRY: Object to the form of the
12 question.

13 MR. McGUIRE: How can this witness know,
14 sir --

15 MR. BERRY: Gross misrepresentation.

16 MR. McGUIRE: Furthermore, how can this
17 witness know what was told to someone else. I
18 don't see how he can give you an answer to that.
19 It doesn't, A: Suggest that such communication
20 took place. This is totally beyond his
21 competency.

22 MR. PLACITELLA: I have the right,
23 Mr. McGuire, to explore the extent of
24 information that was conveyed to this man.

25 MR. McGUIRE: Of course.

1 MR. PLACITELLA: Who was in charge of
2 safety at the plant, that was Owens-Illinois and
3 Owens-Corning fiberglass and to know whether it
4 was communicated or not communicated.

5 MR. BERRY: Mischaracterization of the
6 witness' testimony about his work history.

7 Mr. Grimmie, you are not obliged to
8 accept as true what Mr. Placitella tells you,
9 even if it's in the form of a question if it's
10 not true or you don't remember it as being true.

11 THE WITNESS: I understand that.

12 MR. PLACITELLA: Now, can I ask the
13 question again without 10 objections?

14 Q Were you ever told that by 1957
15 Owens-Corning Fiberglas was aware that asbestos was
16 capable of causing lung cancer?

17 MR. McGUIRE: Same objection.

18 A You better rephrase that. You said '59 -- 1957?

19 Q That's correct.

20 A I had no association with Owens-Corning
21 Fiberglas --

22 Q All right.

23 A -- at that time.

24 Q Were you told in 1958 when you went to
25 work for Owens-Corning Fiberglas that asbestos was

1 capable of causing lung cancer?

2 A I have no recollection of that.

3 Q Now, I want to talk to you about some of
4 the control measures that I told you we would have the
5 opportunity to discuss, okay?

6 A (Motioned).

7 Q Am I correct, that by 1947 Owens-Illinois
8 had in its plants a respirator program?

9 A Yes, sir.

10 Q And that those respirators involved were
11 the kind of respirators that use removable filters?

12 A Yes, sir.

13 Q And did they have removable filters by
14 1957 when you went to work there?

15 A Yes, sir.

16 Q And were some respirators of that type or
17 a more advanced type available at Owens-Illinois and
18 Owens-Corning Fiberglas during the entire time that you
19 worked there?

20 A Yes, sir.

21 Q And as part of your responsibilities at
22 Owens-Illinois and Owens-Corning Fiberglas, were you
23 active in the campaign to get employees to wear these
24 respirators?

25 A Yes, sir.

1 Q And did you actually instruct, while you
2 were at Owens-Illinois, the employees on the dangers of
3 not wearing a respirator?

4 A Yes, sir.

5 Q And while you were at Owens-Corning
6 Fiberglas, did you also instruct the employees on the
7 dangers of not wearing respirators?

8 A Yes, sir.

9 Q Am I correct, sir, that one of the ways
10 that you instructed the employees was to actually,
11 while you were at Owens-Illinois, was to actually put
12 notices on the bulletin boards in the plant?

13 A Yes, sir.

14 Q And would the same be true for
15 Owens-Corning Fiberglas?

16 A Yes, sir.

17 Q Am I correct, sir, that while you were at
18 Owens-Illinois, truck drivers who worked in the plant
19 were required to wear respirators?

20 A Yes, sir.

21 Q And am I correct, that while you were at
22 Owens-Corning Fiberglas, truck drivers who worked in
23 the plant were required to wear respirators?

24 A Yes, sir.

25 Q Am I correct, sir, that while you worked

1 for Owens-Illinois, maintenance men who worked in the
2 plant were required to wear respirators?

3 A We better clarify here. There were certain
4 areas in the plant that were designated respirator
5 area. Anyone working in that area, not just passing
6 through, working in those areas, were required to wear
7 respirators.

8 Q All right. Let me explore that a little
9 bit.

10 Was one of the respirator areas the trim
11 saw area?

12 A Yes, sir.

13 Q I want to make sure I understand it, was
14 the trim saw area the area where the finished Kaylo
15 product was taken and trimmed with a saw before being
16 put into a package?

17 A I'm not being critical, the finished Kaylo
18 product would be after the trim saw.

19 Q Okay.

20 A The processed Kaylo product was taken to the
21 trim saw to be finished and then packaged.

22 Q All right. So is it correct to say that
23 the last step in the manufacturing process before
24 packaging was the trim saw area?

25 A No, sir.

1 Q What was the last step?

2 A Well, for a period of time we were putting a
3 canvas jacket on or aluminum jacket, so I would have to
4 say the packaging area would be the last in the
5 process.

6 Q All right. Let's focus on the trim saw
7 area just for a second and see if I can get it
8 straight.

9 The trim saw area is where they took the
10 Kaylo product and they trimmed the ends off, correct?

11 A That's part of it.

12 Q And that was done with a saw, correct?

13 A Yes, sir.

14 Q In that area, that was a respirator area,
15 correct?

16 A Yes, sir.

17 Q So anyone who worked in that area, not
18 just pass through, but anyone who worked in that area
19 had to wear a respirator, correct?

20 A For a period of time, yes.

21 Q And was this during the time you were at
22 Owens-Illinois?

23 A Yes, sir.

24 Q And Owens-Corning Fiberglas?

25 A For a period of time, yes.

1 Q When you say "period of time," what do you
2 mean by that?

3 A Well, after we improved the dust collecting
4 system to the point that tests showed it was no longer
5 a hazardous area, then we relieved the people of
6 wearing a respirator.

7 Q Okay. Let's focus during the time --
8 let's break down the time period to be fair with your
9 qualification.

10 While you were at Owens-Illinois, were
11 people who worked in the trim saw area required to wear
12 respirators?

13 A Yes, sir.

14 Q And was that limited simply to the people
15 who were doing the trimming themselves?

16 A Those working in the area.

17 Q All right. So if a maintenance man was
18 doing work in the area and he was there for say a full
19 day, would he be required to wear a respirator?

20 A Yes.

21 Q And if a millwright was working in the
22 area, would he be required to wear a respirator?

23 A Yes, sir.

24 Q And if a truck driver or laborer were
25 working in the area for an extended period of time,

1 would they be required to wear a respirator?

2 A Yes, sir.

3 Q And if somebody was just sweeping up the
4 area with a broom, would they be required to wear a
5 respirator?

6 A Yes.

7 Q Now, when you first went to Owens-Corning
8 Fiberglas, was it required that people working in the
9 trim saw area wear respirators?

10 A Yes.

11 Q And did truck drivers working in the
12 trim saw area have to wear respirators?

13 A Yes.

14 Q Would millwrights?

15 A Yes.

16 Q Would maintenance men?

17 A Yes.

18 Q Would laborers?

19 A Yes.

20 Q Would clean-up men?

21 A Yes.

22 Q Okay. You told me that the last step in
23 the manufacturing process, I believe, was putting the
24 product in the package --

25 A Yes.

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1 Q -- correct?

2 Did the men while you were working at
3 Owens-Illinois who were physically taking the product
4 and putting it in the package, were they required to
5 wear respirators?

6 A I don't believe so.

7 Q Were the men --

8 A May I clarify?

9 Q Sure.

10 A If a canvas jacket was being applied, no,
11 because the piece of ware was wet down with liquid
12 paste and the dust was eliminated.

13 Q So let me explore that a little bit.

14 Under what circumstances would you have to
15 put a canvas jacket and/or not put the canvas jacket
16 on?

17 Was that a customer's special
18 specification?

19 A No, sir. That was standard procedure. If a
20 customer required no jacket, then we would make it that
21 way. But standard material was with a jacket.

22 Q Okay. And part of the procedure for
23 putting the jacket on would be to wet down the material
24 in order to glue the jacket on?

25 A Wet it down with liquid paste.

1 Q Okay. And that would suppress the dust
2 that would emanate from the product. Is that correct?

3 A That one -- that was one of the benefits we got
4 from it.

5 Q Now, I believe you previously testified
6 that people who packaged Kaylo were given respirators.
7 Were you talking about when the Kaylo did not have a
8 jacket on it?

9 A Yes, sir.

10 MR. BERRY: Objection. Belated objection
11 to the form of the question.

12 Q Under those circumstances where you
13 were -- had an employee packaging Kaylo without a
14 canvas jacket, would anybody who worked in that area be
15 required to wear a respirator?

16 A Passing through? No.

17 Q I'm saying working in, as you've defined
18 before?

19 A Yes.

20 Q And that, again, would include
21 millwrights?

22 A Yes.

23 Q Maintenance people?

24 A Yes.

25 Q Truck drivers?

1 A Yes.

2 Q The men who were loading Kaylo into trucks
3 or boxcars, were they -- that were put in boxes, were
4 they required to wear respirators while you were at
5 Owens-Illinois?

6 A Not to my recollection, no.

7 Q What about when you were at Owens-Corning
8 Fiberglas?

9 A Not to my recollection.

10 Q Now, you indicated at some point -- well,
11 strike that.

12 Was ventilation equipment also installed
13 in the Owens-Illinois Kaylo plant during the time you
14 worked there?

15 A Would you define "ventilation"?

16 Q Certainly. Let me try to be more
17 specific.

18 I believe you indicated before that dust
19 collection equipment was installed in the area where
20 the Kaylo was cut in the Berlin plant, correct?

21 A Yes, sir.

22 Q And was that during the time that
23 Owens-Illinois owned the plant?

24 A Yes.

25 Q And could you answer for me, Mr. Grimmie,

1 if you know, why that dust collection equipment was
2 needed if a respirator program was being enforced?

3 A Yes. Dust is a nuisance, and we collected dust
4 to keep the nuisance problem down.

5 Q I'm not sure you answered the question and
6 you tell me if you did.

7 My question was: If the respirator
8 program was being enforced in the trim saw area, why
9 was it necessary to put ventilation equipment or dust
10 collecting equipment in that area --

11 MR. BERRY: Object to the form of the
12 question.

13 Q -- if you know?

14 MR. BERRY: If you, in fact, can tell
15 Mr. Placitella that.

16 A Well, I don't understand a question like that,
17 so I don't know.

18 Q That's fair.

19 MR. PLACITELLA: Off the record.

20 (Recess.)

21 MR. PLACITELLA: Ready, counsel?

22 MR. MCGUIRE: Why I'm ready. Let's wait
23 for Mr. Berry.

24 Q Mr. Grimmie, have you taken any medication
25 today that would in any way impede your ability to

1 testify here?

2 A No, sir.

3 Q You told me about some of the control
4 programs and we spoke about respirators.

5 I'd like to ask you about some other
6 areas, okay?

7 A Yes, sir.

8 Q When you were at Owens-Illinois, did they
9 have a program where they would give their employees
10 annual X-rays?

11 A Yes, sir.

12 Q And did they also have X-rays as part of a
13 pre-employment examination?

14 A Yes.

15 Q What was the purpose, if you know, of
16 giving X-rays for pre-employment exams?

17 A It was part of the health examination for
18 pre-employment.

19 Q And what was the purpose of administering
20 annual chest X-rays to employees?

21 A For comparison reasons, as I understood it.

22 Q What do you mean by comparison reasons as
23 you understood it?

24 A As I understood, the annual X-ray would be
25 compared to the last annual and the original to see if

1 there was any change in the lung area.

2 Q And they were specifically concerned about
3 changes in the lung area?

4 MR. BERRY: Objection to the form of the
5 question.

6 A That's usually what a chest X-ray is for.

7 Q And can you tell me, sir, how many people
8 in the Owens-Illinois plant participated -- well,
9 strike that.

10 Did everyone in the plant participate in
11 the annual physical with X-rays?

12 A I'll have to question, if by in the plant you
13 are including office people?

14 Q Yes.

15 A No.

16 Q Did all people other than office people
17 participate in the annual X-ray?

18 A Yes.

19 Q And that would include truck drivers,
20 maintenance people and the like, correct?

21 A Yes.

22 Q Now, am I correct, sir, that in the early
23 1950s many people actually missed their annual X-rays?

24 MR. BERRY: Object to the form of the
25 question.

1 A Not to my knowledge.

2 Q All right, sir, I'm going --

3 MR. PLACITELLA: Can you mark this,
4 please?

5 Q I want to show you what's been marked P-3
6 for Identification, which is a letter from Mr. Preston
7 E. Gillis, dated November 26, 1951.

8 (The above-mentioned document is marked as
9 P-3 for Identification.)

10 Q Who was Preston E. Gillis?

11 A He was a former employee of Owens-Illinois. He
12 worked in the personnel department in Sayreville and
13 Berlin.

14 Q All right. Now, I'm going to show you
15 this letter and ask you if that is what you understand
16 to be Owens-Illinois Glass Company letterhead as of
17 1951?

18 (Witness reviewing document.)

19 MR. BERRY: What's the pending question?

20 MR. PLACITELLA: If he recognizes that
21 letter.

22 A I believe that was Owens-Illinois letterhead.

23 Q Do you recognize the signature of
24 Mr. Preston on that particular document?

25 MR. BERRY: Mr. Gillis, you mean?

1 Q Mr. Gillis?

2 A I couldn't dispute it. I --

3 MR. MCGUIRE: Does that mean you don't
4 know?

5 THE WITNESS: I don't know if Preston
6 signed that.

7 Q Do you have any reason to doubt that he
8 signed it?

9 A I would have no reason to doubt that.

10 Q Now, this is sent to the attention of a
11 Mr. E. H. Marks. Do you know who he was?

12 A I believe I know the name, Ernie Marks.

13 Q Did he work for Owens-Illinois at the
14 time?

15 A I believe so. Yes.

16 Q And do you know in what capacity?

17 A No. I don't recall.

18 Q It's also cc'd to a Mr. Hazard. Were you
19 aware of who he was at the time, W. G. Hazard?

20 A I know a Bill Hazard. I have met Bill Hazard.

21 Q He was an industrial hygienist for
22 Owens-Illinois at the time?

23 A That was my understanding.

24 Q It was also cc'd to Dr. C F. Shook. Were
25 you aware of him at the time?

1 A I believe Dr. Shook was the corporate physician.

2 Q And also to a Mr. G. W. Walker. Were you
3 familiar with him?

4 A What's the initial?

5 Q G. W. Walker?

6 A George Walker was, I believe, the plant manager
7 at that time.

8 Q At Berlin?

9 A Yes, sir.

10 Q And the first sentence in this letter
11 says, "In reviewing the Annual X-ray Program here at
12 Berlin, we have found that one-hundred and eighty
13 people missed an annual X-ray last year."

14 Does that refresh your memory that in 1950
15 one-hundred and eighty people missed their X-rays at
16 Owens-Illinois?

17 A I have no knowledge of that. That sounds like
18 the entire plant population.

19 Q Would you have any reason to dispute this,
20 sir, from the personnel director?

21 MR. BERRY: Object to the form of the
22 question.

23 MR. McGUIRE: Objection to the form of the
24 question.

25 A Would I dispute it?

1 Q Yes.

2 A No, I can't dispute it.

3 Q Now, sir, you told me that one of the
4 reasons for taking X-rays was to monitor the employees'
5 health from year two year, correct?

6 A Yes, sir.

7 Q Was another reason also to use the X-rays
8 in case there was a legal case brought against
9 Owens-Illinois?

10 MR. BERRY: Objection.

11 MR. McGUIRE: Objection.

12 A I have no knowledge of that.

13 MR. PLACITELLA: Could you mark this,
14 please?

15 (Letter dated September 2, 1952 to Whitie
16 is marked as P-4 for Identification.)

17 MR. BERRY: Can I see that, Chris?

18 MR. PLACITELLA: I'll show it to you in a
19 second.

20 MR. BERRY: Mr. Grimmie, I'd like you not
21 to answer until we've had a chance to see the
22 letter.

23 I'm directing him not to answer.

24 MR. PLACITELLA: How can you do that,

25 Mr. Berry, you are not for Owens-Illinois?

1 MR. MCGUIRE: I'm directing him.

2 MR. PLACITELLA: Oh, all right.

3 Q In 1952 were you aware of a man that
4 worked at Sayreville by the name of J. J. Hoffman?

5 A Yes, sir.

6 Q Who was J. J. Hoffman?

7 A I believe he was a personnel manager.

8 Q Who was O. W. Pfeifer?

9 A O. W. Pfeifer was a plant manager at Sayreville.

10 Q And was there somebody called, to your
11 knowledge, Whitie, W-h-i-t-i-e, as a nickname or Whitey
12 (sic)?

13 A Whitie, we had a Whitie Sharff, S-h-a-r-f-f.
14 I don't --

15 Q I'm going to show you a letter dated
16 September 2, 1952, unsigned, addressed to
17 Mr. J. J. Hoffman, Sayreville, which reads:

18 "Dear Whitie:

19 Reference your letter of August 27th,
20 covering storage of X-ray films, am not surprised that
21 it is becoming a problem. I plan on visiting your
22 plant this fall and can advise you better then.

23 We have never set any time limit on X-rays
24 as we never know when we will need them for legal
25 evidence. Personally, I think we should keep them as

1 long as the employee lives.

2 A memorandum covering all medical records,
3 including X-ray films, will be issued as soon as our
4 Legal Division presents an opinion."

5 MR. MCGUIRE: Can we stipulate for the
6 record, that Dr. Shook is stating in 1952 what
7 is apparently now the OSHA policy on the
8 retention of medical records?

9 MR. PLACITELLA: Is it OSHA policy,
10 Mr. McGuire, that you retain them for legal
11 evidence?

12 MR. MCGUIRE: You simply are legally
13 required to retain them Mr. Placitella, okay?

14 It's a rather interesting spin but that's
15 fine.

16 Q Do you see that letter, Mr. Grimmie?

17 A Did I ever see it?

18 Q Have you ever seen that letter before?

19 A No, sir.

20 Q Were you aware back in 1951 that
21 Owens-Illinois was holding on to the records and one of
22 the reasons was to save them in case they needed them
23 for legal evidence?

24 MR. BERRY: Object to the form of the
25 question.

1 A That's a two-part question.

2 Q Were you aware that one of the purposes of
3 maintaining the records of X-rays was to be used for
4 legal evidence in the future, sir?

5 A No, sir.

6 MR. PLACITELLA: Being we mark this the
7 next one?

8 MR. PLACITELLA: P-5 for the record is a
9 June 16, 1952 memo from Mr. Hazard to a C. W.
10 Howard, with attachment.

11 (The above-mentioned document is marked as
12 P-5 for Identification.)

13 Q I'm going to show it to your attorney
14 before I ask you questions.

15 Mr. Grimmie, before I ask you some
16 questions about this document, were you aware in 1952
17 that Owens-Illinois was already planning to defend
18 medical/legal cases arising out of their plant?

19 MR. BERRY: Objection to the form of the
20 question.

21 A No.

22 Q Were you aware of that?

23 A No.

24 MR. BERRY: Objection.

25 MR. McGUIRE: What plants are you talking

1 about. Owens-Illinois had a lot of plants.

2 MR. PLACITELLA: Out of the Kaylo plant.

3 Q Were you aware that they were already
4 planning on how they were going to defend cases that
5 would arise out of the Berlin plant, medical/legal
6 cases?

7 MR. BERRY: Asked and answered. The
8 witness said no.

9 A No, sir.

10 Q Did you ever have any discussions with
11 anyone at Owens-Illinois about the potential for
12 medical/legal cases to be brought concerning injury to
13 the lung at that time?

14 A No, sir.

15 Q Let me just show you what's been marked
16 P-5 for Identification.

17 (Witness reviewing document.)

18 Q I'm going to ask you whether the first
19 page of this document accurately sets for the X-ray
20 program as it existed at Owens-Illinois in 1952.

21 MR. McGUIRE: Do you understand the
22 question now?

23 A I believe the question --

24 Q The question is, whether that memoranda
25 accurately sets for what the X-ray program was at the

1 Berlin plant as of 1952?

2 A Not to my recollection.

3 Q How was the X-ray program different then?

4 A I have no recollection of an exit X-ray.

5 Q Other than an exit X-ray, does it set
6 forth the plant plan as you knew it to exist in 1952?

7 A The numbers and the time periods, I'm going to
8 say no. The rest of it, yes.

9 Q Do you have any reason to doubt that this
10 is, in fact, an internal memoranda of Owens-Illinois
11 concerning the X-ray program in Berlin in 1952?

12 MR. BERRY: Object to the form of the
13 question.

14 A It appears to be. Yes.

15 Q Would that be the form that it would have
16 taken in terms of layout and everything else?

17 MR. BERRY: Object to the form of the
18 question.

19 A Yes, sir.

20 Q Do you recognize the signature of
21 Mr. Hazard?

22 A No, I don't.

23 Q You are not familiar with that signature?

24 A No, I'm not.

25 Q The second page concerns a chest X-ray

1 schedule for Kaylo employees based upon the number of
2 employees as of May 31, 1952.

3 I ask you to look at that and tell me
4 whether that's accurate, to the best of your knowledge?

5 (Witness reviewing document.)

6 A There are some things on here I know nothing
7 about. The number of employees in each department, I
8 don't remember that.

9 Q Would you have any reason to doubt the
10 numbers as they existed there?

11 MR. BERRY: Objection to the form of the
12 question.

13 A I have no reason to doubt that.

14 Q Tell me if I'm reading the last paragraph
15 underneath correctly, it says --

16 MR. MCGUIRE: We'll stipulate you're
17 reading it correctly.

18 MR. PLACITELLA: That's okay. I want to
19 read it for the record.

20 Q "X-rays should be made on 14x7" film.
21 Minature films are not reliable for detection and
22 identification of pulmonary changes caused by breathing
23 asbestos dust - especially in the early stages. This
24 is especially true if a case is presented for
25 medical/legal action."

1 Did I read that correctly, sir?

2 A I understood you to say 14 by 7?

3 Q Is that what it says 14 inches by 7
4 inches?

5 A I see 14 by 17.

6 Q All right. With that change, did I read
7 it correctly, sir?

8 MR. MCGUIRE: Can you remember what he
9 read?

10 THE WITNESS: Well, I'm reading what he
11 read.

12 Q Why don't you read it, Mr. Grimmie,
13 because Mr. McGuire thinks that I can't read? So why
14 don't you read it accurately?

15 MR. BERRY: Objection just based on the
16 evidence to date.

17 MR. MCGUIRE: You are simply reading
18 pieces of the document to him and asking him if
19 you read it correctly?

20 MR. PLACITELLA: That's correct.

21 MR. MCGUIRE: Since we're going to attach
22 these things, whether you read it correctly or
23 not, probably doesn't make any difference
24 inasmuch as the document be there.

25 MR. PLACITELLA: Fine.

1 Q Let me ask the question again so the
2 record is not trashed, okay, Mr. Grimmie?

3 This document states underneath -- let me
4 see if I can get it right this time.

5 MR. MCGUIRE: Let's go off the record a
6 second.

7 Q "X-rays should be made on 14x17" film" --

8 MR. MCGUIRE: We have a problem.

9 Q -- "Miniature films are not reliable for
10 the detection and identification of pulmonary changes
11 caused by breathing asbestos dust - especially in the
12 early stages. This is especially true if a case is
13 presented for medical/legal action."

14 Did I read that correctly, Mr. Grimmie?

15 MR. MCGUIRE: I'm going to object and
16 instruct him not to answer. How can he tell
17 without the document in front of him? The thing
18 says what it says.

19 Q Mr. Grimmie, can you do me a favor?
20 Please, read the last paragraph.

21 (The witness complies.)

22 A "X-rays should be made on 14x17" film.
23 Miniature films are not reliable for" the something
24 "and identification of pulmonary changes caused by
25 breathing asbestos dust - especially in the early

1 stages. This is especially true if a case is presented
2 for medical/legal action."

3 Q Thank you, sir.

4 Now, Mr. Grimmie, am I correct that you,
5 yourself, have asbestosis?

6 A That is correct.

7 Q And that was diagnosed in approximately
8 1977?

9 A I believe that's correct.

10 Q And that was diagnosed by an Owens-Corning
11 Fiberglas plant physician?

12 A Yes.

13 Q And you started work in 1947, correct?

14 A Correct.

15 Q So it took approximately 30 years for your
16 asbestosis to show up, correct --

17 MR. BERRY: Object to the form of the
18 question.

19 Q -- on X-ray?

20 A Well, I can't agree with that because prior to
21 the time I went into the Army in World War II, I worked
22 at New York Ship Building Cooperation in the insulation
23 department.

24 Q Okay. In Camden, New Jersey?

25 A In Camden, New Jersey.

1 Q And did you actually do some insulation
2 work yourself there?

3 A Yes.

4 Q So more than 30 years you were first
5 exposed, you were diagnosed with asbestosis, correct?

6 A Yes.

7 Q You do understand, do you not, that that
8 time period from first exposure to diagnosis is
9 something known as latency?

10 MR. BERRY: Object to the form of the
11 question.

12 MR. MCGUIRE: Is it something you know?

13 THE WITNESS: I've been told of a period
14 of time before the disease shows itself.

15 Q Let me ask you the question this way:
16 When you went to work for Owens-Illinois, did you
17 understand that it took a number of years from the time
18 you could be exposed until you would possibly develop a
19 disease from asbestos?

20 A Not immediately when I went to work.

21 Q When was the first time you were familiar
22 with the concept that it would take a number of years
23 from your -- the time you were first exposed to get the
24 disease?

25 A Well, all I can say is some time after I

1 started. It may have been a year or two. I really
2 don't know.

3 Q Before 1950, sir?

4 A I believe so. Yes.

5 Q Were you aware, then, at least by 1950
6 that it would take a number of years from the time an
7 individual was exposed before disease would show up on
8 X-ray?

9 A Yes.

10 MR. McGUIRE: Objection to form.

11 Q Did you have an understanding at that time
12 approximately how many years that would be?

13 MR. BERRY: Object to the form of the
14 question.

15 MR. McGUIRE: Furthermore, under what
16 conditions of exposure are we talking about? I
17 don't know see how the witness, assuming he had
18 the expertise to answer it, would be able to
19 give a good answer.

20 Q You can answer it, sir.

21 A From what I had heard, 20 years was the term
22 that I heard.

23 Q So when you were working for
24 Owens-Illinois, you were told by somebody at
25 Owens-Illinois that it would take at least 20 years

1 before the effects of asbestos would show up on someone
2 who was exposed to asbestos?

3 MR. BERRY: Objection to the form of the
4 question.

5 A I don't know if it was an Owens-Illinois
6 employee that told me that.

7 Q Let me ask the question this way: Were
8 you aware while you worked for Owens-Illinois that it
9 would take approximately 20 years before asbestos
10 disease could show up on X-ray from someone who was
11 exposed to asbestos dust?

12 A Yes.

13 Q Sir, would you have expected that someone
14 who went to work at Owens-Illinois in 1948 would have
15 had any demonstration of asbestos disease before
16 1958 --

17 MR. BERRY: Object to the form of the
18 question.

19 Q -- if they were exposed to asbestos then?

20 A I can't answer that.

21 Q Why is that, sir?

22 A Well, I don't have that expertise to answer a
23 question like that. You should have asked that
24 question of a doctor.

25 Q Would you have any reason to believe,,

1 sir, that if someone who was working at Owens-Illinois
2 and was exposed to asbestos dust in 1950 would have
3 X-ray evidence of asbestos disease prior to 1958?

4 MR. BERRY: Objection. The witness has
5 already said it's beyond his competency.

6 A No.

7 MR. PLACITELLA: I think he answered no.

8 Q Your answer?

9 A That's my answer. I wouldn't have known that.

10 Q Okay. At some point in time when you
11 worked for Owens-Corning Fiberglas, they actually went
12 and did an epidemiologic survey of the plant workers,
13 did they not?

14 A I don't -- I don't remember.

15 Q That's a bad question. I'm sorry, let me
16 rephrase it.

17 You know, Dr. Konzen, don't
18 you?

19 A Yes.

20 Q Did there come a time in approximately
21 1970 where Dr. Konzen went and looked at the X-rays
22 himself or someone in the Owens-Corning Fiberglas
23 medical department looked at the X-rays to determine if
24 employees showed X-ray changes from asbestos exposure?

25 A I have some recollection of that.

1 Q And that was part of a study that
2 Owens-Corning Fiberglas was conducting of its own
3 employees, correct?

4 A I don't know what the purpose of it was.

5 Q Okay. You are familiar with a man by the
6 name of Clarence Adams?

7 A Yes, sir.

8 Q All right. And did he work in the
9 finishing and packaging department as well as the
10 maintenance department for both Owens-Illinois and
11 Owens-Corning Fiberglas?

12 A Would it be a conflict to tell you he was my
13 brother-in-law?

14 Q I don't think so, sir.

15 A The answer is yes.

16 Q And was he hired, sir, in approximately
17 1956 by Owens-Illinois?

18 A No. I have no recollection of a hire date but I
19 won't dispute it, if that's the record.

20 Q And are you aware as to whether that man
21 was ever diagnosed with asbestosis, sir?

22 A I heard that he was.

23 Q You are familiar with a man by the name of
24 William Cassario?

25 A Yes.

1 Q Did he work for both Owens-Illinois and
2 Owens-Corning Fiberglas?

3 A Yes.

4 Q And did he work in the finishing and
5 packing department?

6 A Yes.

7 Q Did he also work in the warehouse?

8 A Bill Cassario? I don't remember that.

9 Q Are you familiar with a man by the name of
10 William Jose, J-o-s-e?

11 A I know a bill Joes (phonetic).

12 Q Is that how you say it? Sorry.

13 A Yes.

14 Q Did he start working for Owens-Corning
15 Fiberglas in approximately 1961?

16 A After he retired from the Navy, yes.

17 Q Did he also work in the finishing and
18 packing?

19 A Yes.

20 Q You are familiar with Thomas McGrath, are
21 you not?

22 A Yes.

23 Q Did he also work in finishing and packing?

24 A Yes.

25 Q Did he start in approximately 1957 at

1 Owens-Illinois?

2 A I would say that, yes.

3 Q Are you familiar with a William Bodine?

4 A Yes.

5 Q And did he work in maintenance for
6 Owens-Corning Fiberglas?

7 A Yes.

8 Q Did he start working there in
9 approximately 1959?

10 A That's best of my recollection.

11 Q Are you aware of a Charles Congron,
12 C-o-n-g-r-o-n?

13 A Yes.

14 Q And did he work in maintenance?

15 A Yes.

16 Q And did he work for both Owens-Illinois
17 and Owens-Corning Fiberglas in maintenance?

18 A Yes.

19 Q Charles Elliott, are you familiar with
20 him?

21 A Yes.

22 Q Did he also work in maintenance?

23 A Yes.

24 Q And he started the same year you did at
25 Owens-Illinois, didn't he?

1 A Yes.

2 Q Did he start in the maintenance gang with
3 you?

4 A He was a mechanic.

5 Q Okay. And did he work for both
6 Owens-Illinois and Owens-Corning Fiberglas?

7 A Yes.

8 Q Raymond, and I'll spell this one,
9 G-a-n-g-l-u-f-f-?

10 A Gangluff.

11 Q Did he work for Owens-Corning Fiberglas?

12 A Yes.

13 Q And did he also work in the maintenance
14 department?

15 A Yes.

16 Q And did he start in Owens-Corning
17 Fiberglas in approximately 1967?

18 A I would believe so. Yes.

19 Q Charles Schaffer?

20 A Yes.

21 Q Was he also in maintenance?

22 A Yes.

23 Q Did he start with Owens-Corning Fiberglas
24 in approximately 1962?

25 A Yes.

1 Q Ivan Benstead?

2 A Bensted (sic).

3 Q Did he start with Owens-Illinois in
4 approximately 1955?

5 A Yes.

6 Q What department did he work in?

7 A Oh, I only remember him on the security force as
8 a guard.

9 Q He was a security guard?

10 A Yes.

11 Q He didn't work in the hands-on in
12 production, did he?

13 A I can't say that. I have no recollection of it.

14 Q Let me ask you about this one, John
15 Rhoads. Did he work in production?

16 A John Rhoads was a quality assurance supervisor,
17 manager.

18 Q Did he work hands-on in production?

19 A No.

20 Q And did he start at Owens-Corning
21 Fiberglas in approximately 1961?

22 A No. We better fess up here. John Rhoads worked
23 in Berlin. He trained in Berlin, went to Sayreville.
24 Now John, we may have John Rhoads, Jr. on that.

25 Q Okay. Was there a John Rhoads, Jr.?

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1 A Yes.

2 Q And did he work at Berlin?

3 A Yes.

4 Q And did he begin in approximately 1961 or
5 so at Owens-Corning Fiberglas?

6 A I believe so.

7 Q Did he work in production?

8 A Yes.

9 Q What did he do?

10 A I don't remember.

11 Q George Singley, did you know him?

12 A Yes.

13 Q Did he start working at Owens-Corning
14 Fiberglas in approximately 1966?

15 A I wouldn't dispute it.

16 Q What did he do, if you recall?

17 A I believe he was in finishing and then he went
18 to the security guard.

19 Q Frank Pino, P-i-n-o?

20 A Yes.

21 Q Are you familiar with him?

22 A Yes.

23 Q He worked in Owens-Illinois before you got
24 there, correct?

25 A Yes.

1 Q Was he in maintenance?

2 A Yes.

3 Q Did he continue to work for Owens-Corning
4 Fiberglas after the take over?

5 A Yes. As a supervisor.

6 Q Harry Copeland, are you familiar with him?

7 A Yes.

8 Q Was he hired by Owens-Illinois in
9 approximately 1952?

10 A '52?

11 Q Yes.

12 A Yes.

13 Q Did he work in pouring and then in
14 finishing and packing?

15 A I remember Harry in finishing and packaging. I
16 don't remember him in pouring, but that doesn't say he
17 didn't.

18 Q George Zepp, are you familiar with him?

19 A Yes.

20 Q Was he hired by Owens-Illinois in
21 approximately 1950?

22 A Yes. You are going down death row here, aren't
23 you?

24 Q Well, we'll get to that.

25 Did he continue to work for Owens-Corning

1 Fiberglas?

2 A Yes.

3 Q And did he also work in finishing and
4 packing?

5 A Yes.

6 Q Gerald Southard, are you familiar with
7 him?

8 A Sutterd (sic). Yes.

9 Q Did he start working in Owens-Illinois the
10 same year you did, 1947?

11 A Yes. I don't remember. I won't dispute it.

12 Q Did he also work in finishing and packing
13 as well as maintenance?

14 A Yes.

15 Q And did he continue to work for
16 Owens-Corning Fiberglas?

17 A Yes.

18 Q Are you aware that all these men were a
19 subject of a study done by Dr. Konzen in 1970 that we
20 discussed before?

21 A No, I'm not aware of that.

22 Q This is the first time you've heard of
23 that?

24 A Yes.

25 MR. PLACITELLA: I want to have this

1 marked.

2 Q I'm going to show you what's been marked
3 P-6 and I'll have your attorney look at it and then I'm
4 going to ask you just a couple questions about it

5 Q I'm going to show you what's been marked
6 P-6, Mr. Grimmie, which I represent to you is produced
7 by Owens-Corning Fiberglas in the case of Jamison,
8 dated October 16, 1989, Docket No. 87-L1230?

9 (The above-mentioned document is marked as
10 P-6 for Identification.)

11 MR. MCGUIRE: What's the docket number
12 again?

13 MR. PLACITELLA: 87-L1230.

14 MR. BERRY: New Jersey case?

15 MR. PLACITELLA: No, not a New Jersey
16 case.

17 I think this was a Virginia case.
18 I'm sure there are counsel that might be
19 familiar with that.

20 MR. O'DONNELL: It's not a Virginia case.

21 Q I represent it was produced by
22 Owens-Corning Fiberglas and their files.

23 MR. BERRY: It's not a representation you
24 have to accept.

25 MR. PLACITELLA: If it's necessary to

1 prove, Mr. Berry, I'll prove it.

2 Q This is a spread sheet with 16 columns, am
3 I correct? I'm describing this for the record.

4 A 16 is correct.

5 Q Can you read for the record the names of
6 each column?

7 A Column No. 1, age. Column No. 2, date of hire.
8 Column No. 3, years of service. Column No. 4,
9 department. No. 5, dust level. No. 6. Time on job.
10 No. 7, skeletal change.

11 MR. McGUIRE: Can you read that?

12 THE WITNESS: I don't know what that says.

13 Q Okay. Next?

14 A The next one, I can't read that.

15 Column No. 9, bronchial trees. No. 10,
16 intestinal fibrosis.

17 MR. McGUIRE: Or is that interstitial, or
18 can you read it?

19 Q Does it say interstitial fibrosis, sir?

20 A No. 11, I can't read that. No. 12, pleura.
21 No. 13, other. No. 14, I can't read that. I can guess
22 but I won't. No. 15 is blank and No. 16, comment.

23 Q Okay. Let's focus on No. 14. Would you
24 agree that that states "Radiological Abnormality
25 Noted"?

1 MR. MCGUIRE: Witness said he wouldn't
2 want to guess.

3 A Well --

4 Q Is that a fair reading of that, sir?

5 A It appears to say that.

6 Q "Radiological Abnormality Noted"?

7 A Yes.

8 Q And I've asked you for a good 10 minutes
9 before this, all of the information, concerning these
10 men in terms of the first four columns, have I not?

11 MR. BERRY: Object to the form of the
12 question.

13 A Name, age. You didn't ask me -- their --

14 Q Let me --

15 A -- date of hire. Years of service, you didn't
16 ask me. Department, you did.

17 Q The information that's contained in the
18 first four columns for these men, is it accurate to
19 your understanding?

20 A I can't answer that.

21 Q All right. Sir, looking at Column No. 14
22 for a Mr. George Zepp, under "Radiological Abnormality
23 Noted," does it say, sir, the year 1956?

24 MR. BERRY: Object to the form of the
25 question. The document, to the extent it's

1 legible speaks for itself. If it's admissible,
2 if you want to get it admitted through this
3 witness, maybe you could ask him if he had
4 ever seen it before. I don't see much purpose
5 in having this witness read a document he's
6 having trouble reading. Probably not a good use
7 of time for any of us here.

8 MR. MCGUIRE: Furthermore, obviously there
9 is a Best Evidence Rule because obviously there
10 is someone's summary station of data, the
11 accuracy of which, or the actual interpretation
12 of which is not plain to us here.

13 If you want the witness to read a
14 couple things, we object, but he can do it. But
15 we're not going to have him spend the whole day
16 here having him read things he isn't sure of.

17 MR. PLACITELLA: Can I ask the question
18 again?

19 MR. MCGUIRE: Sure.

20 Q The document in front of you, Mr. Grimmie,
21 was that ever shown to you by anyone in Owens-Corning
22 Fiberglas medical department?

23 A Not to my recollection.

24 Q Do you recognize any of the handwriting on
25 it?

1 A No, I don't.

2 Q Do you have any reason to doubt from the
3 review of the document the accuracy of the information
4 located on it?

5 MR. BERRY: Objection to the form.

6 MR. McGUIRE: Objection. The witness
7 can't answer that. He doesn't have the medical
8 records, he doesn't know who prepared it and
9 he doesn't know the basis on why it was
10 prepared.

11 I'm directing him not to answer it.

12 Q Let me ask the question again of you,
13 Mr. Grimmie. In looking at Column 14, with respect to
14 George Zepp, under "Radiologic Abnormality Noted," does
15 it not say the year 1956?

16 MR. BERRY: Object to the form of the
17 question. The document speaks for itself.

18 A Yes.

19 Q And that was during the time, 1956, when
20 Owens-Illinois owned the plant, wasn't it?

21 A Yes.

22 Q Were you aware in 1956 that Mr. Zepp had
23 anything wrong with his lungs?

24 MR. BERRY: Object to the form of the
25 question.

1 A Not to my recollection.

2 Q Is that something that would have been
3 ordinarily communicated to you in your capacity in
4 1956?

5 MR. BERRY: Object to the form of the
6 question.

7 A I don't recall what my capacity was in 1956.

8 Q Do you remember what job you had?

9 A I just don't remember.

10 Q You don't remember in 1956 what job you
11 had?

12 A Believe it or not, no.

13 Q Were you production supervisor? Does that
14 refresh your memory?

15 A If that's what it says, you have the advantage.

16 Q That's what you testified to earlier this
17 morning, sir.

18 A Okay.

19 Q As a production supervisor in 1956, would
20 information concerning disease found in the employees
21 be something that would be communicated to you by the
22 company physician?

23 MR. BERRY: Object to the form of the
24 question.

25 A Not necessarily.

1 Q Were you aware that Clarence Adams had
2 "Radiological Abnormality Noted" in 1959?

3 MR. BERRY: Objection.

4 MR. McGUIRE: Objection to the form of the
5 question. The witness has no expertise to
6 answer that question.

7 Q Were you ever told that?

8 A No.

9 Q Sir, you are familiar with the term
10 "threshold limit of value," are you not?

11 A I've heard that.

12 Q Do you know what it means?

13 A I believe so.

14 Q Okay. Am I correct that you really can't
15 recall the first time you heard that term?

16 A You are correct.

17 Q Are you familiar with a person by the name
18 of L. B. Moffet?

19 A L. B. Moffet?

20 Q M-o-f-f-e-t of Owens-Illinois?

21 A I have no recollection of that name.

22 Q Okay. Are you familiar with the TLV being
23 5 million -- prior to 1968, being 5 million particles
24 per cubic foot of asbestos-containing dust?

25 A Yes.

1 Q That was your understanding?

2 A Yes.

3 Q Now, you are familiar with a Lynn Shall,
4 are you not?

5 A Who?

6 Q Lynn Shall used to work for New Jersey
7 Department of Health?

8 A Lynn Shall? I have no recollection.

9 Q At some point in time, sir, did you become
10 aware that Aetna was performing dust surveys in the
11 Kaylo plant?

12 A Yes.

13 Q And was that even prior to 1958?

14 A I don't like to assume something. I believe so.

15 Q Were you aware that prior to 1958 in the
16 sawing area that we discussed before, the trim saw
17 area, that the TLV was being exceeded?

18 MR. BERRY: Object to the form of the
19 question.

20 A No. I have no direct recollection of that.

21 Q Do you have a recollection of the TLV ever
22 being exposed in the packaging area?

23 A Ever being exceeded?

24 Q Yes.

25 A Yes.

1 Q When was the first time you came to know
2 that the TLV was being exceeded in the packaging area?

3 A I don't remember.

4 Q Was it during the time that you worked for
5 Owens-Illinois?

6 A I don't remember.

7 Q Would it be fair to say, Mr. Grimmie, that
8 the conditions that existed in 1958 when Owens-Corning
9 Fiberglas took over the Kaylo plant were substantially
10 similar to that when Owens-Illinois owned the plant?

11 MR. BERRY: Object to the form of the
12 question.

13 A At that period of time, yes.

14 Q And would it be also fair to say that if
15 anything after 1958, the dust conditions in the plant
16 got better than they were when Owens-Illinois owned the
17 plant?

18 MR. BERRY: Object to the form of the
19 question.

20 A Improvements were made.

21 Q Is the answer yes?

22 MR. BERRY: The answer is "improvements
23 were made."

24 A Yes.

25 Q Let me ask the question again. Is it fair

1 to say that after Owens-Corning Fiberglas took over the
2 plant in 1958, the conditions concerning dust in the
3 plant were improved over that which existed when
4 Owens-Illinois owned the plant?

5 MR. BERRY: Object to the form of the
6 question.

7 A We had an expansion program, new equipment was
8 added and the new equipment improved the condition.

9 Q The answer is yes?

10 A The answer is yes.

11 Q Okay. You are familiar with a man by the
12 name of Durwood Stayton (phonetic)?

13 A Yes.

14 Q And he was the inspector for Aetna, was he
15 not?

16 A Yes.

17 Q And did he inspect the Owens-Illinois
18 plant for safety purposes while you worked there?

19 A I believe so. Yes. The only hesitation I have
20 is the time period, but he inspected the plant.

21 Q While it was owned by Owens-Illinois and
22 Owens-Corning Fiberglas -- let me rephrase that.

23 Did he do the inspections while
24 Owens-Illinois owned the plant?

25 A I believe so.

1 Q And do you know whether he did similar
2 inspections after Owens-Illinois Fiberglas took over
3 the plant?

4 A I'm confused because there was an inspector from
5 Aetna, Paul Shoe, and I believe he was before Pat
6 Stayton, and I'm confused on the time period.

7 Q All right. We'll go to some documents and
8 we can help out a little bit.

9 Did you have discussions with Mr. Stayton
10 about dust in the plant?

11 A Yes. I'm sure I did.

12 Q Are you also familiar with a man by the
13 name of Robinson who worked for Aetna?

14 A I know of Robby Robinson. I can't place him.

15 Q Was he an inspector who did dust surveys
16 in the plant, to your recollection?

17 A I don't recall Robby being an inspector.

18 Q Okay. Let me show you what's been -- what
19 will be marked P-7 after your attorney has a chance to
20 look at it.

21 MR. PLACITELLA: Referring to P-7, which
22 for the record is Special Hazard Dust Survey
23 prepared for Owens-Illinois, Kaylo Division,
24 Berlin, New Jersey by a F.W. Sehl.

25 (The above-mentioned document is marked as

1 P-7 for Identification.)

2 Q Sehl's, is that the name you were trying
3 to remember for us, Sehl?

4 A Sehl?

5 Q What was the name you were trying to
6 remember before, who was the inspector for
7 Owens-Illinois?

8 A Paul Shoe?

9 Q Shoe? Okay.

10 MR. PLACITELLA: And it's blurred but
11 looks like it's S-e-l, J.M. Robinson. April
12 28th and May 2, 1958.

13 Q While you were at --

14 MR. PLACITELLA: S-e-h-l.

15 Q While you were at Owens-Illinois, were you
16 ever shown a copy of this document.

17 (Witness reviewing document.)

18 MR. BERRY: I think that's physically
19 impossible.

20 MR. PLACITELLA: No. I know your
21 argument, I don't think it is.

22 A No, I have no recollection of it.

23 Q Okay. in 1958 was Mr. Pfeiffer the plant
24 manager for Owens-Illinois?

25 A Yes.

1 Q And was Mr. Justin the personnel director?

2 A Yes.

3 Q Was a Mr. Cassario the personnel
4 assistant?

5 A Yes.

6 Q And, Mr. Grimmie, you were production
7 superintendent then, correct?

8 A Yes.

9 Q Was Mr. Gardner safety director for
10 Owens-Illinois at that time?

11 A I don't remember.

12 Q And Mr. Paul Shoe, that was the man you
13 were talking about before? He was the Aetna safety
14 engineering representative who serviced the plant at
15 that time, correct?

16 A I believe so, yes.

17 Q The first paragraph of this document
18 indicates, "The purpose of this visit was to determine
19 the employee exposure to dust in production
20 operations."

21 The second paragraph says, "Contacts:
22 Mr. F. W. Sehl and the writer contacted Mr. Pfeiffer,
23 Plant Manager, Mr. Justin, Personnel Director,
24 Mr. Cassario, Personnel Assistant and Mr. Grimmie,
25 Production Superintendent. Also present were

1 Mr. Gardner, Safety Director for Owens-Illinois, and
2 Mr. Paul Shoe, Aetna Safety Engineering Representative
3 who services this plant."

4 Do you recall in approximately April/May
5 1958, having a meeting with people from Aetna and
6 others at Owens-Illinois concerning a dust survey that
7 was done at that point in time?

8 A I don't recall the specific meeting or any other
9 meeting.

10 Q You don't have a specific recollection of
11 this meeting?

12 A No, I don't.

13 Q All right. Were the results of the dust
14 surveys conducted by Aetna communicated to you in your
15 capacity as a production superintendent for
16 Owens-Illinois?

17 MR. BERRY: Objection to the form of the
18 question.

19 A In any areas of responsibilities, yes.

20 Q In 1958, what were your areas of
21 responsibility?

22 A Evidently the production and finishing area,
23 batch, mixing, production, finishing.

24 Q Would that include the horizontal
25 splitting saw area?

1 A Yes.

2 Q Would that include the flat ware finishing
3 area?

4 A Yes.

5 Q And would information concerning dust
6 inspections on those areas done by Aetna be
7 communicated to you?

8 MR. BERRY: Object to the form of the
9 question. You mean was it communicated?

10 Q In your capacity, was that something that
11 would have been communicated?

12 A Yes.

13 Q Now, have I shown you this?

14 MR. McGUIRE: Yes, you did and he didn't
15 see it or doesn't remember seeing it.

16 A I have no recollection of this document.

17 Q I just want you to look at the first page.

18 (The witness complies.)

19 Q I didn't see you turn the page over.

20 A Well, I looked at the first page and -- just the
21 first page?

22 Q Look at the whole document. The reason I
23 said that, I only saw you look at the first page
24 before.

25 (Witness reviewing document.).

1 MR. BERRY: Is this all prefatory to him
2 having seen the document because I recall him
3 saying no?

4 Q You've had the opportunity to review the
5 whole document.

6 Can you recall seeing this document
7 before?

8 A No, sir.

9 Q Are you familiar with any of the
10 information contained in this document?

11 MR. MCGUIRE: That's rather broad, "any
12 information."

13 MR. PLACITELLA: I'll narrow it down.

14 Q Sir, let me ask the question.

15 A The question is?

16 MR. BERRY: He's going to try another one,
17 Mr. Grimmie.

18 Q Let me ask the question this way,
19 Mr. Grimmie: Were you aware as of 1958 as reflected in
20 this document that the TLV was exceeded in the
21 horizontal splitting saw area?

22 MR. BERRY: Object to the form of the
23 question.

24 MR. MCGUIRE: Let me see the document,
25 please?

1 A I have no recollection of that.

2 Q Okay.

3 MR. McGUIRE: At the time of the
4 measurement?

5 Q While Mr. Berry is looking at that, let me
6 ask you a couple other questions.

7 Were you aware in 1958 that the TLV was 5
8 million particles per cubic foot of asbestos-containing
9 dust?

10 MR. BERRY: Object to the form of the
11 question.

12 MR. PLACITELLA: What's wrong with the
13 form, Mr. Berry?

14 MR. BERRY: That assumes that the witness
15 can make a distinction between asbestos dust and
16 asbestos-containing dust.

17 MR. PLACITELLA: I'm asking him the
18 question, Mr. Berry. I know your argument, I'm
19 asking him the question.

20 Q Are you aware in 1958 of the TLV of
21 5 million particles per cubic foot for
22 asbestos-containing dust?

23 MR. BERRY: Same objection.

24 A I have have no recollection of that.

25 Q Do you know in 1958 whether you were aware

1 of the TLV at all?

2 MR. MCGUIRE: You mean whether it was
3 asbestos or asbestos --

4 MR. PLACITELLA: I'm not asking him that,
5 any of that. Save that for the judge.

6 Q What?

7 A I have no recollection of that.

8 Q That's what I'm trying to understand. You
9 have no recollection of a TLV or what the TLV was?

10 A I know what a TLV is. I think I know. I don't
11 know when I learned it.

12 Q Okay. What is your understanding that the
13 TLV was 5 million particles per cubic foot for
14 asbestos-containing dust?

15 MR. BERRY: Object to the form of the
16 question. Same objection as before.

17 A I don't remember when I learned that.

18 Q Did there come a point in time when you
19 learned that to be the case?

20 A Yes.

21 MR. BERRY: Object to the form of the
22 question.

23 MR. PLACITELLA: Can I have the document
24 now, Mr. Berry?

25 MR. BERRY: For sure.

1 MR. PLACITELLA: Thank you.

2 Q I'm going to refer you on the first page
3 of this document where it says "Air Sample No. 4,
4 Flatware Finishing - Charging end - taken at breathing
5 level of operator feeding flat ware to the trim saw."

6 Do you see that?

7 A Yes.

8 Q And can you tell me what that document
9 indicates in terms of the dust count as of 1958 --

10 MR. BERRY: Object to the form of the
11 question.

12 Q -- at that area?

13 MR. BERRY: Object to the form of the
14 question. The document speaks for itself. The
15 witness has said he doesn't have any
16 recollection of ever seeing the document.

17 MR. McGUIRE: Furthermore, I think the
18 witness has already explained this was one of
19 several areas where respirators were required.
20 So that the effect of our record, could be a
21 little misleading.

22 MR. PLACITELLA: In what way, Mr. McGuire?
23 Let me understand.

24 MR. McGUIRE: The document then goes on to
25 explain that there's a respirator program which

1 is designed to deal with those areas where the
2 TLV at the time of the measurement was being
3 exceeded.

4 So that on one hand when you ask him
5 wasn't the TLV being exceeded, well, that may be
6 true but the other side of the question is the
7 witness has already explained that there was
8 another precaution, that is the respirators.

9 MR. PLACITELLA: Mr. McGuire, you are
10 willing to stipulate that the TLV was being
11 exceeded, that's why respirators were being used
12 in this area of the plant?

13 MR. BERRY: I'm not.

14 MR. PLACITELLA: Is that something
15 you are willing to stipulate?

16 But it sounds like you are.

17 MR. MCGUIRE: I can't stipulate.

18 MR. PLACITELLA: And then we can cut down
19 a lot of questions.

20 MR. BERRY: Mr. Placitella, I think we can
21 cut down a lot of questions anyway.

22 The document does speak for itself.
23 You can ask him if he knew in point of time what
24 a dust measurement was at a particular
25 operation. He doesn't know or does know.

1 You can ask him if his
2 recollection is refreshed by seeing a document
3 that he says he hasn't seen before.

4 I mean, you know?

5 MR. PLACITELLA: I can ask the questions I
6 want to ask.

7 MR. BERRY: That's true. Whatever
8 falls out from that, falls out.

9 MR. PLACITELLA: Fine.

10 MR. PLACITELLA: You are willing to
11 stipulate, Mr. McGuire, Mr. Berry, that if this
12 document is used in any proceedings it speaks
13 for itself?

14 MR. BERRY: Mr. Placitella, I'm not even
15 willing to concede it's an admissible document
16 and authenticate.

17 MR. PLACITELLA: It's already been
18 numerous times, Mr. Berry.

19 You are well aware of it, including
20 against your complaint.

21 MR. BERRY: I don't have to stipulate to
22 anything.

23 MR. PLACITELLA: I'm not asking you to.
24 You just said it speaks for itself.

25 Q Why don't we do this, Mr. Grimmie, you

1 have to take a pill with food right about now, do you
2 not?

3 A Pretty soon.

4 Q Why don't we break for lunch and we'll
5 come back and we'll talk a little bit more about this,
6 okay?

7 (Luncheon recess taken.)

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1 A F T E R N O O N S E S S I O N

2 MR. PLACITELLA: Mark this, please.

3 (Report dated October 23, 1968 is marked
4 as P-8 for Identification.)

5 Q Mr. Grimmie, hopefully I'll move things
6 along this afternoon a little quicker so you can beat
7 the rush hour traffic home.

8 A I appreciate it.

9 Q Let me just back up a little bit to make
10 sure I understand what your testimony is.

11 Do you ever recall receiving reports from
12 Aetna in connection with your responsibility that air
13 samples in certain areas were elevated beyond a
14 reasonable TLV?

15 MR. McGUIRE: "A reasonable TLV"?

16 MR. PLACITELLA: Right.

17 MR. McGUIRE: I object to the form of the
18 question.

19 MR. PLACITELLA: All right.

20 A Receiving reports? No.

21 Q Do you want to say something else?

22 A Well, I remember hearing and being directed to
23 certain actions to take, I believe, which as a result
24 of reports that were made.

25 Q Well, let me read to you your trial

1 testimony in October 24, 1979, at page 176 starting at
2 line 10:

3 "QUESTION: Do you ever recall receiving
4 reports from Aetna in connection with your
5 responsibility that air samples in certain areas
6 were elevated and beyond a reasonable TLV?

7 ANSWER: Yes. I have a recollection of
8 that."

9 Does that refresh your memory,
10 Mr. Grimmie?

11 A If you have these answers, why are you asking me
12 these questions?

13 Q Can you answer my question?

14 A Yes, my recollection is --.

15 Q Refreshed?

16 A Okay. Go ahead.

17 Q You did receive such reports, correct?

18 Correct? Correct, you did?

19 A Correct what?

20 Q You did receive such reports?

21 A Evidently. Yes.

22 Q You now remember that having my shown you
23 your testimony from a trial that you testified in, in
24 the McGrath case, correct?

25 A Yes, you have refreshed my memory.

1 Q Okay. And am I correct, that you were
2 informed that the TLV was exceeded in areas where
3 sawing of Kaylo was done in the Berlin plant?

4 A Yes.

5 Q And am I correct, that you were also
6 informed that the TLV was exceeded in areas where
7 packaging was done of Kaylo in the Berlin plant?

8 A Yes.

9 Q Now, let me go back now and show you P-7
10 and ask you if this refreshes your recollection in
11 connection with your McGrath testimony as to whether
12 you received such a report?

13 MR. BERRY: I object to the form of the
14 question. The witness has already answered.

15 (Witness reviewing document.)

16 A What was the question?

17 Q Does that refresh your memory, sir, now
18 having recalled your testimony in McGrath as to whether
19 you saw this report back in 1958?

20 A No. I don't remember that report other than
21 what was shown to me a little while ago.

22 Q Okay. Were you made aware of the results
23 of this report in 1958, sir, even if the report was not
24 shown to you?

25 A I was made aware of conditions around the plant

1 pertaining to dust. Whether it was as a result of that
2 report or not, I don't know.

3 Q Well, let me read you from page 86 of your
4 testimony of October 24, 1979 in the McGrath trial,
5 sir.

6 MR. McGUIRE: Page 86?

7 Q Starting on page 5.

8 "Were there reports that would come into
9 the plant in regard to the dust survey?

10 MR. McGUIRE: page 5?

11 MR. PLACITELLA: 86.

12 MR. BERRY: Line 5.

13 Q Line 5.

14 "ANSWER. Yes, sir."

15 And page 87: "And were you made aware of
16 the results of the reports?

17 "ANSWER: Yes, sir."

18 Sir, I'm going to show you, if I may,
19 certain items. Let me show you an item marked D-78 for
20 Identification, entitled "Special Hazard Survey Dust
21 Survey by Aetna Casualty Surety." At the bottom,
22 prepared for Owens-Illinois, dated April 28th and May
23 2, 1958.

24 And I represent to you, sir, that this is
25 within less than a week of the time that the change

1 over was made between Owens-Illinois and Owens-Corning.
2 It's just almost precisely at that time.

3 Does that part of the transcript refresh
4 your memory as to --

5 MR. BERRY: Wait. Wait. Wait.

6 MR. PLACITELLA: Let me finish.

7 MR. BERRY: No.

8 MR. PLACITELLA: Then you can make your
9 objection.

10 MR. BERRY: When an answer to the question
11 is "I have no recollection of that," that's an
12 unfair question.

13 MR. PLACITELLA: No. Let me finish the
14 question and then you can make your objection,
15 okay?

16 Q Do those questions and those answers
17 refresh your memory of whether you ever saw this report
18 in 1958?

19 MR. BERRY: I object to the question.

20 A I have no recollection.

21 MR. McGUIRE: I move to strike the
22 answers you're referring to. They are simply
23 read portions of the very exhibit and the
24 witness answered. So that the record is
25 complete.

1 MR. PLACITELLA: Why don't you let me
2 finish because I have another question and then
3 you can make your objection, okay?

4 MR. MCGUIRE: Very good.

5 Q You have the transcript in front of you,
6 Mr. McGrath?

7 MR. MCGUIRE: Grimmie.

8 MR. BERRY: Grimmie. Mr. McGrath was the
9 plaintiff in the case.

10 Q And then they talk about a number of
11 recommendations that are made and it's asked whether
12 the recommendations were done and you state at page 88,
13 "I have no recollection of that." Is that correct?

14 MR. BERRY: I object to the form.

15 MR. MCGUIRE: What is it you're referring
16 to, the report, the specific time or what?

17 Q Let's read the whole thing, okay,
18 Mr. Grimmie? Leaving off, it's just almost precisely
19 at that time.

20 I draw your attention to page 3 of the
21 survey in regard to Air Sample No. 3 and show you that
22 it says, Air Sample No. 3 shows a dangerously high
23 count. Air Sample No. 4" -- and I'm only reading part
24 of it -- Air Sample No. 4 shows a high count, also.

25 There are a number of recommendations in

1 this report and I draw your attention to Figure 1A. It
2 says, "A review should be made of the present
3 respiratory program in order to bring it up to
4 Owens-Illinois standard and should include the
5 following: A: Two respirators should be provided for
6 each employee exposed to dust so that one respirator
7 can be cleaned, checked and sterilized while the other
8 is being used."

9 "Was that done, sir?"

10 ANSWER: I have no recollection of that."

11 Was that your testimony in the McGrath
12 case, sir?

13 A Well, the court reporter wouldn't lie, would he?

14 Q Doesn't it say in this testimony, sir,
15 that you never received a copy of the report and you
16 have no recollection?

17 MR. BERRY: Objection. I request that the
18 witness not answer that, although I'm sure the
19 jury is impressed.

20 MR. PLACITELLA: Fine.

21 Q Let's walk-through the report now,
22 Mr. Grimmie.

23 Under Air Sample No. 4 on page two. It
24 indicates, "Flatware Finishing - Charging end - taken
25 at breathing level of operator feeding flat ware to the

1 trim saw. 46.3 million particles per cubic foot of
2 air."

3 Were you made aware, sir, in 1958 that the
4 dust count and the flatware finishing area was 46.3
5 million particles per cubic foot?

6 A I have no recollection of being made aware of
7 that.

8 Q And the next air sample reading, No. 5, on
9 the same page says, Flatware Finishing - Turnover at
10 Rubber - taken at breathing level of operator. 9.5
11 million particles per cubic foot of air."

12 Were you ever made aware of that reading
13 in 1958, sir?

14 A I have no recollection of that.

15 Q Next reading, next page, -- page 2, Air
16 Sample No. 6, "Packaging - Taken at the breathing level
17 midway between two men filling boxes. 11.5 million
18 particles per cubic foot of air."

19 Were you made aware of that reading in
20 1958, sir?

21 A I have no recollection.

22 Q Going to page 3, under Air Sample No. 3,
23 which corresponds --

24 MR. MCGUIRE: I object to this. The
25 witness has already explained to you, he has not

1 seen the document, he obviously does not know
2 its particular content and you are going to
3 spend the next couple of pages just reading him,
4 to have him say no, he has no recollection which
5 is his original answer.

6 MR. PLACITELLA: If that's so, if he's
7 going to testify he was in charge of production
8 at, and safety at this plant, he has no idea
9 whatever about the dust counts, that's fine.

10 A That's a crock of canal water.

11 Q That's fine. Let me ask you some
12 questions. You weren't at the wedding.

13 It states on page 3, "Air Sample No. 3
14 shows a dangerously high count. In the operation here,
15 which is the splitting of flat ware on a band saw, the
16 man removing the pieces separates the two pieces and
17 the dust is due to this handling of the ware. The band
18 saw itself does not create too great a problem, as it
19 is equipped with a dust collector which is working
20 quite effectively. We feel that an exhaust system
21 should be installed which will remove this excessive
22 dust from the breathing area of the man. We noted that
23 this operator was not wearing a respirator. Use of a
24 respirator for this operation should be mandatory."

25 Were you made aware of that by Aetna or

1 anybody else at Owens-Illinois or Owens-Corning
2 Fiberglas on/or about 1958?

3 A Would you mind reading that again?

4 Q Sure. I'll give it to you again, sir.

5 A I don't want to read it, I can't. That's
6 blurry.

7 Q It's not blurry. Why don't you try it,
8 sir. Your lawyer can read it to you.

9 MR. MCGUIRE: Which part?

10 MR. PLACITELLA: Where it says "Air Sample
11 No. 3."

12 MR. MCGUIRE: Okay. Well, I'm going to
13 object because the witness has already explained
14 that this was a respirator area and the
15 recommendation here was that a respirator should
16 be mandatory.

17 Are you able to read this,
18 Mr. Grimmie?

19 THE WITNESS: Well, I just missed the
20 area he was talking about. That's the splitting
21 saw. I had no recollection of that.

22 Q Were you made aware of that?

23 A I have no recollection of being made aware of
24 that.

25 Q Are you aware of a meeting in 1958

1 involving the department managers who had, in fact,
2 received this report, sir?

3 A I have no recollection of that meeting.

4 Q Let me read to you from your testimony of
5 December 18, 1984, sir, page 38, line 19.

6 "Now, in 1958, did you become aware while
7 you were working for Owens-Corning that
8 threshold limit values were being exceeded in
9 certain parts of the plant?"

10 MR. MCGUIRE: Page 39?

11 MR. PLACITELLA: 38, line 19.

12 Q "ANSWER: I have a recollection of that.
13 Yes, sir.

14 QUESTION: How did you become aware of it,
15 if you recall?

16 ANSWER:" --

17 MR. MCGUIRE: That's not our page 38.

18 MR. PLACITELLA: December 18, 1984.

19 MR. MCGUIRE: Sorry, wrong date.

20 MR. PLACITELLA: Page 39.

21 MR. MCGUIRE: Hold on.

22 Q I'll start again. Stephen Copperafy
23 (phonetic), Civil Action No. 81-2,000, December 18,
24 1984.

25 MR. MCGUIRE: Do you want to show the

1 witness the transcript?

2 MR. PLACITELLA: Don't you have it with
3 you?

4 MR. MCGUIRE: No, I don't.

5 MR. PLACITELLA: I'm sorry. Well, sure.

6 Q Let me start to read it again, sir, then
7 I'll show you the transcript, okay?

8 "Now, in 1958 did you become aware while
9 you were working for Owens-Corning that
10 threshold limit values were exceeded in certain
11 parts of the plant?

12 ANSWER: I have a recollection of that.
13 Yes, sir.

14 How did you become aware of it, if you
15 recall?

16 ANSWER: I believe in a morning meeting,
17 the plant manager announced to all of the
18 department managers that he had received a
19 report.

20 QUESTION: From whom?

21 ANSWER: We needed work. I don't recall
22 from where, and that was generally the way the
23 information was conveyed whenever a survey
24 was made.

25 QUESTION: When you say "morning meeting,"

1 who attended that?

2 ANSWER: All the department managers and
3 the plant manager."

4 Would that refresh your recollection as to
5 whether --

6 A I don't remember that specific report.

7 Q All right. Do you remember other reports,
8 sir?

9 A No.

10 Q Let me go back to page 3 where it says,
11 "Air Sample No. 4 also shows a high count also. As in
12 the operation discussed in the above paragraph, the
13 dust is not due to a sawing operation but rather to a
14 handling of the flat ware. The operator in placing the
15 flat ware on the line stirs up considerable dust. The
16 saw collector itself appears to be working effectively.
17 Here again we feel that an exhaust system should be
18 considered for removal of the dust from the breathing
19 level of this man. At the time of this visit, the
20 operator was wearing a respirator and we feel that this
21 is essential for this work."

22 Do you recall being informed of that in
23 1958, sir?

24 A I have no recollection of that.

25 MR. McGUIRE: Of that report? Of that

1 report?

2 THE WITNESS: That's what he's reading
3 from, isn't it?

4 Q Air sample No. 6, page 4, "Air sample
5 No. 6 was taken at the packaging of flat ware. Here
6 two men were placing the flat ware in cartons. Again
7 the dust was due mainly to the handling operation. We
8 would like to see both men wearing respirators for this
9 operation."

10 Were you made aware of that in 1958, sir?

11 A I have no recollection of that.

12 Q Sir, in 1949 were you ever made aware --
13 well, strike that.

14 At any time that you worked for
15 Owens-Illinois, were you ever made aware that dust
16 studies were done of men loading Kaylo into boxcars?

17 A I have no recollection of that.

18 MR. PLACITELLA: Can I have this marked?

19 Q I'm going to show you what's been marked
20 P-9 for Identification. I ask you to take a look at
21 it.

22 MR. PLACITELLTA: P-9 is a November 10,
23 1949 letter from William Hazard, signed
24 "Sincerely yours, Bill, Industrial Relations
25 Division," to Mr. J. F. McMahon, Managing

1 Director, Industrial Hygiene Foundation of
2 America.

3 (The above-mentioned document is marked as
4 P-9 for Identification.)

5 MR. BERRY: Was there a P-8?

6 MR. PLACITELLA: Yes, it's coming.

7 MR. BERRY: Okay.

8 (Witness reviewing document.)

9 Q Sir, have you ever seen that letter
10 before?

11 A Not to my recollection.

12 Q Would you agree with me that this is on
13 Owens-Illinois Glass Company stationery?

14 A It appears to be, yes.

15 Q I'm referring to a portion of the third
16 paragraph that I have highlighted, which states, "While
17 all the fabricating operations are equipped with good
18 dust exhaust systems, there is a dust exposure when
19 finished slabs are stacked in box cars for shipment.
20 Recent dust counts show this to range from about 25 to
21 50 million particles per cubic foot as sampled with an
22 impinger."

23 Were you ever made aware of these dust
24 counts, sir, 25 to 50 million particles per cubic
25 foot --

1 A Not to my recollection.

2 Q -- for simply installing? I mean for
3 simply stacking asbestos Kaylo?

4 MR. BERRY: Object to the form of the
5 question, the characterization.

6 MR. PLACITELLA: What's wrong with the
7 characterization?

8 MR. BERRY: I didn't hear the word
9 simply there.

10 MR. PLACITELLA: Let me redo it again.

11 Q Were you ever made aware, sir, that dust
12 counts -- that Owens-Illinois was aware that in
13 stacking Kaylo in boxcars that the dust counts were 25
14 to 50 million particles per cubic foot?

15 MR. McGUIRE: At what time?

16 MR. BERRY: I object to the form of the
17 question. Was he aware that Owens-Illinois
18 was aware when he was a batch mixer?

19 MR. PLACITELLA: I'll strike it and do it
20 again.

21 Q Were you ever made aware during the time
22 that you worked for Owens-Illinois that stacking Kaylo
23 in boxcars generated dust counts of 25 to 50 million
24 particles per cubic foot?

25 MR. McGUIRE: We'll accept that without

1 objection if you will qualify further by saying
2 by Mr. Hazard in 1950 or '51.

3 MR. PLACITELLA: It was 1949, but don't
4 let me get in the way.

5 MR. MCGUIRE: Are you aware of what
6 Mr. Hazard --

7 THE WITNESS: I am aware of putting a
8 double-faced corrugated piece on the top of the
9 carton of block before it was sealed to hold the
10 dust down. That's what I am aware of. Why
11 was it? It was to hold the dust down.

12 Q Let me understand that for a second, then.
13 I'll go back to this.

14 You say there was a double-faced
15 corrugated what?

16 A A square the shape of the carton, the dimension
17 of the carton.

18 Q Yes?

19 A Double-faced corrugated placed on top of the
20 block before it sealed -- the flaps were sealed.

21 Q You put the Kaylo in the box and then you
22 put this corrugated --

23 A That's cardboard to you.

24 Q Cardboard inside the box to keep the dust
25 down?

1 A That's what my understanding was.

2 Q And what would happen when you took the
3 Kaylo out of the box?

4 A I didn't take it out of the box, I can't answer
5 that.

6 Q All right. Would you expect, sir, that
7 when you removed the corrugated piece of cardboard from
8 the box, when you took it out that dust would be
9 created?

10 MR. BERRY: Objection to form.

11 A I wouldn't expect anything, I wouldn't know.

12 Q All right. Would you agree, sir, that if
13 you take blocks of Kaylo and knock them together you
14 will see a small cloud of dust given off?

15 A I know that to be a fact.

16 Q Thank you, sir.

17 Now, between 1958 and 1968 were
18 improvements made in the flat ware finishing end in the
19 Berlin plant in terms of dust control?

20 A I believe in that time frame, yes.

21 Q What kind of improvements?

22 A Oh, I believe there was dust collecting systems
23 added, new pick up hoods which would exhaust dust from
24 the saw blades and the sanders, and the dust collecting
25 system.

1 Q And are you aware, sir, that 10 years
2 after Owens-Corning Fiberglas took over the plant,
3 despite all of the improvements that you've discussed,
4 that Owens-Corning received a report that said that
5 dust counts in the area of the flat ware line where the
6 product is boxed or stacked on pallets is higher than
7 desirable?

8 A No, I don't remember that, but I can -- well, go
9 ahead.

10 Q You were never made aware of that, sir?

11 A I don't recall that.

12 Q Do you recall a company called William
13 R. Bradley and Associates?

14 A I've heard that, yes.

15 Q And in what connection have you heard of
16 them?

17 A I understood they were sampling air sampling.

18 Q For what purpose?

19 A Dust count, I assume.

20 Q And who is Mr. S. H. Thomas, sir?

21 A S. H. Thomas?

22 Q Right.

23 A Well, there's Sam Thomas, was the former officer
24 of Owens-Corning.

25 Q Do you recall that he was a director of

1 environmental control for Owens-Corning Fiberglas
2 Corporation?

3 A I believe I recall that.

4 Q I'm going to show you what's been marked
5 P-8 for Identification and ask you if you've seen this
6 document before?

7 (Witness reviewing document.)

8 MR. PLACITELLA: Mark this, please.

9 (Letter dated August 7, 1951 from Thomas
10 Durkan to W. G. Hazard is marked as
11 P-10 for Identification.)

12 Q Did you have a chance to look at that,
13 sir?

14 A I'm going to read it. I don't have to go any
15 further. I have no recollection of every seeing
16 that.

17 Q Okay. So Owens-Corning Fiberglas never
18 showed you this report, sir. Is that correct?

19 A Not to my recollection.

20 Q And in 1968 you were serving in what
21 capacity as Owens-Illinois employee?

22 A I believe what? Production and personnel
23 manager.

24 Q And you were charged with safety
25 responsibilities at that time, sir?

1 A That's correct.

2 Q And page 2 of the report indicates --
3 well, strike that.

4 Were you in charge of the flat ware lines
5 at that point in time? Was that something you had
6 jurisdiction over?

7 A Yes.

8 Q Page 2 of the report indicates, "Dust
9 counts in the area of the flatware line where the
10 product is boxed or stacked on pallets are higher than
11 desirable. It is suggested that cartons to be loaded,
12 travel on a roller/conveyor that passes through a
13 mechanically exhausted booth enclosure.

14 The design of dust collection hoods on the
15 integrated line sawing stations should be improved in
16 order to provide more complete enclosure. Dust counts
17 are excessive at these stations, and it is recommended
18 that employees wear respiratory protection until
19 environmental control has been installed."

20 Do you recall being told that by anyone at
21 Owens-Corning Fiberglas in around 1968, sir?

22 A I recall equipment such as you just described
23 being worked on and installed.

24 Q Do you recall anyone in Owens-Corning
25 Fiberglas telling you that there was excessive dust

1 levels in 1968 where the flatware line was where the
2 product is boxed or stacked?

3 MR. MCGUIRE: You mean as the reason for
4 the improvements he's explaining?

5 MR. PLACITELLA: That's not what I'm
6 asking.

7 A I have no recollection of anyone telling me
8 that.

9 Q Next sentence, "Dust control at the two
10 band sawing stations for pipe needs improvement.
11 Operators are exposed too high dust concentrations."

12 Do you recall being told that by anyone at
13 Owens-Corning Fiberglas in 1968?

14 A I have no specific recollection of that.

15 Q Thank you, sir.

16 Did Owens-Illinois ever tell you that they
17 were informed by the Saranac Laboratory that the
18 Saranac Laboratory was not certain of what -- at
19 measuring concentration of asbestos fibers is a limit
20 of safety?

21 MR. BERRY: Object to the form of the
22 question.

23 A I have no recollection of that.

24 Q If Owens-Illinois was told, Mr. Grimmie,
25 that the Saranac Laboratory wasn't sure what was safe,

1 what level was safe, would you want them to know that,
2 sir?

3 MR. BERRY: Objection.

4 MR. McGUIRE: Objection.

5 A I would assume that somebody in the corporation
6 would know it.

7 Q Would you like to have had that
8 information communicated to you?

9 MR. BERRY: Objection to the form.

10 MR. McGUIRE: Objection to the form of the
11 question. Unless you are talking about
12 recommendations for the protection and control
13 of a hazard at the plant, I don't see how this
14 witness can respond.

15 MR. PLACITELLA: All right. Let me follow
16 up on your objection, sir.

17 Q I'm going to show you a document marked
18 P-10, August 7, 1951, from Thomas M. Durkan to
19 Mr. W. G. Hazard, Industrial Relations Division,
20 Owens-Illinois Glass Company.

21 MR. McGUIRE: Okay, counsel, having looked
22 at this, I think I can see there's a problem in
23 your question.

24 MR. PLACITELLA: Well, I'm going to ask
25 him a question now. I didn't refer to the

1 document before when I was asking him a
2 question. Now I'll ask him questions about the
3 document so then you can determine whether
4 there's a problem with my question or not. I,
5 please, ask that you don't coach the witness
6 about anything I'm about to ask him until I've
7 asked him and then we'll discuss whether your
8 objection is valid.

9 Q I want to show you what's been marked
10 P-10, Mr. Grimmie, and ask you if you've ever seen this
11 letter before.

12 (Witness reviewing document.)

13 A I have no recollection of seeing it.

14 Q This is not a document that Owens-Illinois
15 ever showed you while you worked for them up until
16 1958, is it, sir?

17 A Not to my recollection.

18 MR. BERRY: Objection to the form of the
19 question.

20 Q Thank you, sir.

21 Did Owens-Illinois ever tell you,
22 Mr. Grimmie, that they were informed by the Industrial
23 Hygiene Foundation that the TLV was unreliable?

24 MR. BERRY: Object to the form of the
25 question.

1 A I have no recollection of that.

2 Q Is that something that you would like to
3 have known --

4 MR. McGUIRE: Objection.

5 Q -- in the management capacity while you
6 worked for Owens-Illinois?

7 MR. McGUIRE: Objection. Instruct the
8 witness not to answer.

9 MR. BERRY: Objection.

10 MR. PLACITELLA: What's the basis for the
11 objection?

12 MR. McGUIRE: A: There's no foundation
13 for the representation that you made. B: It's
14 calling for speculation. C: There's no
15 indication that the precautions recommended by
16 these agencies were not legitimate and it was
17 not reasonable to follow.

18 You are asking this witness and that
19 can't possibly be answered.

20 Q Did anyone at Owens-Illinois ever show you
21 something called a Hemian Report (phonetic), sir?

22 A I have no recollection of that.

23 MR. BERRY: Objection.

24 MR. PLACITELLA: Is there something I
25 said, Mr. Berry, that's funny?

1 MR. BERRY: Yes.

2 MR. PLACITELLA: Oh, would you want to let
3 us all in on the joke, please?

4 MR. BERRY: No.

5 MR. PLACITELLA: Okay.

6 Q During the course of your employment with
7 Owens-Illinois, did you have meetings with any of the
8 employees on the issues of asbestos and health?

9 A That would have been part of meetings.

10 Q When was the first such meeting held with
11 employees of Owens-Illinois, to your knowledge?

12 A I have no recollection of when the first meeting
13 was held.

14 Q Can you recall while you were employed by
15 Owens-Illinois informing the employees that cutting
16 Kaylo without adequate respiratory protection or dust
17 collection equipment could be hazardous to their
18 health?

19 A I may have said that, I don't remember
20 specifically when. That would seem to me to be common
21 sense.

22 Q What would be "common sense"?

23 A To inform people that the dust in the plant was
24 not a healthy condition.

25 Q That wasn't my question. That's why I

1 want to make sure we understand.

2 Would it make common sense to inform the
3 people in the plant that when you cut Kaylo without
4 wearing adequate respiratory protection and without
5 adequate dust collection equipment, that there was a
6 potential health hazard?

7 MR. BERRY: Objection to the form of the
8 question.

9 A Yes.

10 Q Would you believe that during the time
11 that you worked for Owens-Illinois?

12 A Did I believe that?

13 Q Yes.

14 A Yes.

15 Q And would you have helped, sir, if
16 Owens-Illinois gave the same information to their
17 customers?

18 MR. BERRY: Object to the form of the
19 question.

20 MR. McGUIRE: Objection. You are talking
21 about the plant here and its manufacturing
22 environment, not any risk or potential risk to
23 users, none of which was perceived at the time.

24 MR. PLACITELLA: That's your
25 characterization, Mr. McGuire. I think that's

1 something for a jury to decide.

2 MR. MCGUIRE: Of course.

3 MR. PLACITELLA: Okay..

4 MR. MCGUIRE: That's why I bring it to
5 your attention. It's also your
6 characterization. It's very opposite.

7 MR. PLACITELLA: I'll ask a direct
8 question. I'll go at it another way.

9 Q Do you recall monthly unit management
10 meetings as of 1953 where the hazards of cutting Kaylo
11 were discussed with union management?

12 A I don't know when. I recall the union
13 management meetings where dust was part of the
14 discussion.

15 Q Would you dispute if I told you that you
16 previously testified that in 1953 employees were
17 complaining about dust in the plant?

18 A I wouldn't dispute that.

19 Q Now, you previously indicated, I think,
20 that you learned about asbestos as a potential cancer
21 hazard after reading some newspaper article. Is that
22 fair?

23 A That's a fair assumption, yes.

24 Q And when was that?

25 MR. BERRY: Asked and answered.

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1 MR. PLACITELLA: I'm sorry, forgive me.

2 Q Do you know when that was?

3 A Exactly, no. It was some time after my
4 employment, February 14, 1947.

5 Q Do you know whether it was before 1960 or
6 after 1960?

7 A It was before 1960.

8 MR. PLACITELLA: Mr. McGuire, there's no
9 reason for you to interrupt or to coach the
10 witness at this point.

11 MR. MCGUIRE: I object to the question.
12 The witness had previously given an answer. You
13 obviously confused his answer about the time in
14 the 1960s after he read those articles. You
15 have him thinking about something else when he
16 began at Owens-Illinois and I think that the
17 witness should be given a chance to clarify.

18 MR. PLACITELLA: I think the judge will
19 read your comments, Mr. McGuire, and the judge
20 should note that the minute he answered that
21 question, you went to whisper in his ear until I
22 stopped you, okay?

23 MR. MCGUIRE: Okay.

24 Q Mr Grimmie, did there come a time in 1971
25 where shift meetings were set up to discuss the hazards

1 of asbestos with employees at the Owens-Corning
2 Fiberglas plant?

3 A I know there were shift meetings set up. I'm
4 not sure of the timing on that.

5 Q All right. The dates are important, so I
6 want to see if I can refresh your memory with your
7 prior testimony.

8 In your testimony in the McGrath trial,
9 October 24, 1979, page 113, line 2 -- before I get to
10 that, who is Mr. Shirley?

11 A Paul Shirley was a former plant manager for
12 Owens.

13 Q Beginning on page 2, line 13:

14 "Did Mr. Shirley ever make any attempts to
15 communicate with the workers in regard to the
16 subject of asbestos and your health?

17 ANSWER: Yes, sir.

18 QUESTION: Briefly, what did he do?

19 We'll get to that in a moment.

20 If you know the exact date, you tell
21 us without looking at a piece of pipe, otherwise
22 I'll show you a piece of paper?

23 ANSWER: I believe in September of 1971 we
24 had shift meetings."

25 Does that refresh your recollection, sir?

1 A That's what it says.

2 Q And at those shift meetings, can you
3 recall what was discussed, sir?

4 A I believe Paul Shirley discussed the asbestos
5 situation in/and around the plant and what he expected
6 of employees and what the employees company expect of
7 the company.

8 Q Okay. Was the subject of cancer and
9 asbestos brought up at that time, sir?

10 A I have no recollection of that.

11 Q Okay. And you're aware, sir, are you not
12 that, in fact, cancer was supposed to be brought up and
13 that Owens-Corning Fiberglas medical department nixed
14 it?

15 MR. MCGUIRE: Objection to the form of the
16 question.

17 A I'm not aware of that.

18 Q You are not aware of that, sir?

19 MR. PLACITELLA: Can I have this marked
20 next, please?

21 Q I'm going to show you what's been marked
22 P-11, a memo from Jon L. Konzen to P. H. Schauerla,
23 Berlin. Subject, employee educational program, cc'd
24 are R. E. Grimmie.

25 (The above-mentioned document is marked as

1 P-11 for Identification.)

2 Q That's you, sir. Is that right?

3 A That's right.

4 Q Was there a Mr. W. L. Kreuttz also
5 employed by Owens-Corning at that time?

6 A Who?

7 Q Mr. Kreuttz, K-r-e-u-t-t-z? He was from
8 Toledo?

9 A Bill Kreuttz?

10 Q He was employed by Owens-Corning at that
11 time?

12 A That's correct.

13 Q Was there a Mr. McNally employed by
14 Owens-Corning at that time?

15 A Plant physician.

16 Q And was there a Mr. Sepessy, S-e-p-e-s-s-y
17 employed by Owens-Corning at that time?

18 A Seppessy? Yes.

19 Q Okay. You can take a look at that, sir?
20 I'll ask you some questions.

21 (The witness complies.)

22 MR. MCGUIRE: Okay, counsel, I have to
23 take sharp exception on the record to the
24 representation that Owens-Corning is said to
25 have nixed something. I read this document,

1 which you've shown the witness, which you're
2 showing the witness P-11, specifically.

3 MR. PLACITELLA: There's no question
4 pending, sir.

5 MR. MCGUIRE: I know that, sir.

6 MR. PLACITELLA: And I will get to it. I
7 will demonstrate just how they nixed it. You
8 don't have to worry about it.

9 MR. MCGUIRE: I'm sure you will.

10 Let us note for the record that the
11 document specifically points out that the
12 relationship between asbestos over exposure and
13 cancer is to be discussed with the workers, if
14 it does not arise in the course of the
15 particular discussion. And I think you know
16 you are suggesting something on the record here
17 that's a little inappropriate.

18 MR. PLACITELLA: The record will speak for
19 itself, sir.

20 Can I have the document now, sir?

21 MR. MCGUIRE: Sure.

22 MR. PLACITELLA: Thank you.

23 MR. MCGUIRE: That's all right.

24 Q We'll get to the beginning of the
25 document, Mr. Grimmie.

1 I want you to take a look at it and tell
2 me if you recall ever receiving a copy of that document
3 which is indicated cc'd to you in 1971.

4 (Witness reviewing document).

5 A It's cc'd to me, but I don't remember it. It's
6 copied to me.

7 Q I'm going to show you page 3 of this
8 document, sir, which is a draft -- strike that.

9 Attached to the document is a document
10 entitled, "Draft, An Educational Program For Employees
11 Exposed To Airborne Asbestos Fiber," 1/22/71. And I'm
12 going to show you page 3 of this document, sir, and ask
13 if in reading the part with the X through it, that
14 refreshes your memory as to whether you've seen this
15 document before.

16 (The witness complies.)

17 MR. MCGUIRE: Does that refresh your
18 recollection?

19 A I have heard of what it said there but I don't
20 remember this document.

21 Q Okay. Let's just go through it for the
22 record and for the jury, sir.

23 Page 3 indicates, does it not in the
24 proposed draft, "Up to now I've been talking about the
25 disease asbestosis, which again, is a scarring of the

1 lungs. There is another condition I am sure you have
2 all heard can be caused by excessive exposure to
3 asbestos and that is cancer of the lungs. Indications
4 are that excessive exposure for a long period of time
5 can cause cancer of the lungs in some people. The
6 frequency that this occurs is very much less than
7 asbestosis. We believe that the concentration must be
8 very high, and the exposure prolonged. Therefore, it
9 is important to reduce the exposure to asbestos dust as
10 much as possible.

11 It is important to note that cancer is to
12 believed to have occurred more frequently in the
13 asbestos exposed worker that smokes cigarettes than in
14 the nonsmoker. Therefore, this is an added inducement
15 to you men who are smokers to quit smoking or, at least
16 reduce your smoking. The very least, it is strongly
17 suggested that you do not smoke while working."

18 Did I read that correctly, sir?

19 MR. BERRY: Object to the form of the
20 question. I invoke the Rule of Completeness.

21 MR. MCGUIRE: I further object to what is
22 obviously a draft here. There is no evidence or
23 suggestion that the redaction of any part of the
24 proposed draft had any specific motivation. It
25 certainly represents a number of things that may

1 or may not be accurate. And the bottom line is,
2 there's no evidence that this particular
3 document, in fact, either with or without the
4 redactions is a transcript for the sum and
5 substance of the very presentation. And all we
6 have here is a draft marked up presumably by
7 Dr. Konzen and the relevance of this escapes me
8 and it certainly doesn't establish that the
9 employees were not told about any of the
10 particular risks that might have been applicable
11 to them. And I think that it's really
12 misleading to try to read this thing as if it
13 were. And I probably don't need to remind you
14 that ordinarily this sort of thing is not
15 admissible.

16 MR. PLACITELLA: It's terrible. You done?

17 MR. MCGUIRE: I'm done.

18 MR. PLACITELLA: Okay. Thank you.

19 Q Mr. Grimmie, did I read those two
20 paragraphs correctly?

21 A Evidently, yes, as I recall what you read and
22 what I see here.

23 Q Am I correct, sir, those two paragraphs
24 have a big black X going through them?

25 A Yes. No one initialed the X, though.

1 Q All right. Your testimony has been here
2 today, sir, correct, that you have no recollection at
3 this meeting of asbestos and cancer being discussed,
4 correct?

5 MR. MCGUIRE: Objection. That's not his
6 testimony.

7 Q Correct?

8 A I told you. Why are you looking over there?
9 Are they coaching you?

10 Q Yes, they are, sir.

11 A Or are you talking to me?

12 Q I'm a lawyer in training.

13 Please, answer the question.

14 A That's understandable.

15 What I told you was, I have no
16 recollection if it was that specific meeting or other
17 meetings. I know it was discussed. You're trying to
18 pinpoint me to this particular meeting and I don't know
19 if it was that particular meeting.

20 Q So now has your testimony changed that you
21 think they might have discussed cancer?

22 A Did I change it?

23 MR. MCGUIRE: Objection. And I instruct
24 the witness not to answer. This is totally
25 outrageous the way you are trying to turn this

1 gentleman's testimony around.

2 MR. PLACITELLA: Mr. McGuire, what is
3 outrageous is your conduct.

4 MR. BERRY: Objection.

5 Q Is it your recollection as you sit here
6 today that cancer might have been discussed at this
7 meeting?

8 A Yes.

9 Q What do you base that upon, sir?

10 A I base it upon the fact that I remember keeping
11 a record of everyone attending the meetings and those
12 that did not attend, there was a special meeting for
13 those people.

14 Q And that is what makes you think you told
15 them about cancer, sir?

16 A Me?

17 Q Yes.

18 A I'm pretty sure Paul Shirley conducted the
19 meetings.

20 Q You are pretty sure he told them about
21 cancer?

22 A Yes, sir, I'm pretty sure of that.

23 Q Do you have any knowledge as to why in the
24 draft of this speech, that Owens-Corning Fiberglas
25 would want to X out the portion on cancer, sir?

1 A I'm not sure Owens-Corning X'd it out.

2 MR. MCGUIRE: Objection.

3 Q Excuse my?

4 A I'm not sure Owens-Corning X'd it out.

5 Q Let me show you the front page of this
6 particular document, sir.

7 MR. MCGUIRE: I'm going to object here. I
8 think you are badgering the witness. He has
9 already explained that he has a recollection of
10 what was discussed at this or other meetings,
11 that it did include cancer, that he has never
12 recalled seeing the particular document you are
13 showing to him.

14 The fact that the particular draft
15 may differ in some respect from his independent
16 recollection of some other situation is
17 immaterial and you're just harassing this
18 witness.

19 MR. PLACITELLA: I'm not harassing him,
20 Mr. McGuire. I fully intend to introduce
21 evidence at trial that will indicate that
22 subsequent drafts that were delivered did not
23 include cancer and that the X'd out portion did
24 not appear in the final draft, okay? And I'll
25 make that representation to you because you

1 should know that. You produced these documents
2 from Owens-Corning Fiberglas files.

3 MR. MCGUIRE: You should also --

4 MR. PLACITELLA: Let me finish my.

5 MR. MCGUIRE: Let him finish telling you
6 that what he knows from hearing at the meetings
7 is not what is shown in pieces of paper --

8 Q You read the first page of this document,
9 did you not, Mr. Grimmie?

10 A Yes.

11 Q And this is to Mr. Shirley, Berlin, from
12 Dr. Konzen, correct?

13 A That's correct.

14 Q And the third paragraph of the document
15 starts, "It is noted that you deleted the paragraph
16 concerning the relationship between asbestos
17 over-exposure and cancer." Did it not start that way,
18 sir?

19 A You are reading it.

20 Q Did it not start that way?

21 A Let me see.

22 (Handing.)

23 A Yes, that's what it says.

24 Q All right. So is your memory refreshed
25 now, sir, as to whether somebody at Owens-Corning

1 Fiberglas put an X through the section on cancer, sir?

2 A I don't know.

3 MR. McGUIRE: Objection. The witness
4 has already said he doesn't know. How can he
5 have his recollection refreshed as to something
6 he doesn't know?

7 MR. PLACITELLA: Because the document is
8 addressed to him, sir. The first line of the
9 third paragraph says, "Cancer was deleted."
10 That's a legitimate question and I'm entitled to
11 have an answer..

12 A I have no recollection of that.

13 Q Thank you, sir.

14 A You're welcome.

15 Q Do you recall at that meeting a question
16 and answer, sir, in 1971, question and answer session?

17 A I have no recollection of that.

18 Q Do you have a recollection as to whether
19 at a question and answer session the subject of cancer
20 ever came up?

21 MR. McGUIRE: Wait a minute. Hold on.
22 The witness just finished saying he does not
23 remember whether there was a question and answer
24 session.

25 MR. PLACITELLA: I'm seeing if I can

1 pique his memory, sir, and I'm entitled to ask
2 that question.

3 MR. MCGUIRE: Okay.

4 Q Do you recall at a question and answer
5 session whether the subject of asbestos and cancer was
6 discussed?

7 MR. MCGUIRE: Does that help you remember
8 whether there was a question and answer session?

9 THE WITNESS: At the present time I have
10 no recollection of that.

11 Q Thank you, sir.

12 Do you know a Dr. Billmaier, sir, Donald
13 J. Billmaier?

14 A Donald Billmaier? I know a Dr. Billmier
15 (phonetic).

16 Q Do you know a Dr. Donald Billmaier?

17 A Yes.

18 Q Who is he, sir?

19 A I believe he was assistant to Dr. Konzen in the
20 medical department.

21 Q All right. And do you recall Dr.
22 Billmaier in 1978 giving the presentation to the Berlin
23 employees concerning the health aspects of asbestos?

24 A I don't remember that.

25 MR. PLACITELLA: Can I have this marked,

1 please?

2 (Report by Dr. Billmaier is marked as
3 P-12 for Identification.)

4 Q Okay. Sir, I'm going to show you what's
5 been marked P-12 for Identification. And see if this
6 refreshes your recollection as to whether Dr. Billmaier
7 gave a presentation on the health aspects of asbestos
8 to the Berlin employees in May, 1978.

9 (Witness reviewing document.).

10 (Discussion off record.)

11 (Recess.).

12 Q Have you had the opportunity to look at
13 P-12, Mr. Grimmie?

14 A Yes, sir.

15 Q From reviewing this document, which I'll
16 represent to you is produced to us by Owens-Corning
17 Fiberglas, does that refresh your memory as to whether
18 Dr. Billmaier gave a presentation on the health aspects
19 of asbestos on/or about May, 1978 to the Berlin
20 employees?

21 A I have a recollection of meetings but no
22 specific meetings or dates.

23 Q Do you recall Dr. Billmaier giving a
24 presentation --

25 A Yes.

1 Q -- to employees?

2 A Yes, I have recollection of that.

3 Q Now, I'm going to refer to page 4 of the
4 presentation where Dr. Billmaier states and I quote, or
5 at least this document states, "Based on my
6 understanding of the plant environment in the past you
7 probably had a significant exposure to asbestos. I
8 don't believe it was as severe as the exposures others
9 had in ship building. I don't believe this plant ever
10 had the concentrations of dust that I've seen reported
11 in ship building and heavy construction."

12 Did you understand that to be the case
13 when Dr. Billmaier made his presentation in 1978?

14 A I don't remember that.

15 Q Did you understand that to be the case,
16 sir, that the exposures in the plant were not as heavy
17 as they were in heavy construction?

18 MR. MCGUIRE: Objection to the form of the
19 question. The witness has already explained he
20 did work in ship construction in the shipyard.

21 MR. PLACITELLA: Mr. McGuire, I know you
22 really want to answer these questions, but if
23 you can just let me ask the questions and get an
24 answer, maybe we can finish today.

25 MR. BERRY: The witness answered the

1 question.

2 Q Let me ask the question again. Please
3 bear with me. I really want to finish soon.

4 Were you aware, as this document
5 indicates, that the plant exposures weren't as severe
6 as exposure that had been reported in ship building and
7 heavy construction?

8 MR. BERRY: Object to the form of the
9 question.

10 A No. I was not aware of that. I --.

11 Q I'm sorry, did you want to finish?

12 A Well, from my recollection, when I worked in the
13 shipyard, I don't remember any severe exposure.

14 Q Well, you worked in the Camden Shipyard,
15 correct?

16 A New York Ship Building Corporation, Camden, New
17 Jersey.

18 Q And what years was that, sir?

19 A I believe 1941, 42. I left there to go in the
20 Army.

21 Q You didn't use Kaylo at that shipyard, did
22 you, sir?

23 A Kaylo was not invented then.

24 Q So any exposures that you saw, didn't have
25 anything to do with the Kaylo product, correct, sir?

1 A That's correct.

2 Q Now, Mr. Grimmie, do you know a man by the
3 name of Sam Schillaci? Have you ever heard of a man by
4 the name of Sam Schillaci? Am I saying it correctly?

5 A Can I see the name?

6 Q Well, Mr. Berry, I'm sure will correct me
7 if I spell it wrong. S-c-h-i-l-l-a-c-i.

8 MR. PLACITELLA: Is that correct,
9 Mr. Berry?

10 MR. BERRY: That's right.

11 Q Have you ever heard of him before?

12 A I have recollection of the name Scallati
13 (phonetic) but I have no memory of this.

14 Q You never heard of a man named Sam
15 Schillaci in connection with your employment at
16 Owens-Illinois?

17 A I have no recollection at this time.

18 Q Mr. F. W. Sherwood, have you ever heard of
19 a man named F.W. Sherwood?

20 A Sherwood?

21 Q Right. S-h-e-r-w-o-o-d. In connection
22 with your employment at Owens-Illinois?

23 A Not in connection with my employment. There's a
24 family of Sherwoods that live in my hometown.

25 Q Okay. Mr. A. C. Harth, are you familiar

1 with that name in connection with your employment at
2 Owens-Corning?

3 A What was the name, Harth?

4 Q A. C. Harth, H-a-r-t-h?

5 A I have no recollection of that name.

6 Q Now, can you tell me during the time that
7 Owens-Illinois owned and manufactured Kaylo, what the
8 basic composition of the product was?

9 A Basically lime, silica, diatomaceous earth,
10 asbestos and a small amount of clay.

11 Q And water?

12 A And water.

13 Q From the time that Owens-Illinois
14 manufactured Kaylo up through until 1972, was there any
15 significant change in the composition of the product?

16 MR. BERRY: Object to the form of the
17 question. Which particular product are you
18 talking about, pipe or block, door core,
19 ceiling, roofing block?

20 MR. PLACITELLA: If he tells me they're
21 different, we'll get into that.

22 Q Let's talk about pipe covering?

23 A Pipe covering would have been a late density,
24 what they called the late density formulation and I
25 don't recall any specific changes.

1 Q So the record is clear, because I think
2 Mr. Berry's objection is a valid one for a change, the
3 pipe covering that was manufactured by Owens-Illinois,
4 did the composition of that pipe covering change
5 substantially from 1957 up until 1972?

6 A Not substantially.

7 Q What kind of changes were made, if any?

8 A There may have been slight changes made because
9 of the calcium content in the lime, testing of
10 materials may require changes to balance out the
11 different raw materials.

12 Q Did the asbestos component change
13 significant during that time?

14 A That would be possible, too.

15 Q Do you have any knowledge as to that?

16 A No, I have no memory no recollection of it
17 but --.

18 Q Would that be something you think that you
19 would know in the context of your employment whether
20 there were any significant changes in the asbestos
21 component?

22 A Significant changes, yes.

23 Q I'm going to see if I can move this along.

24 MR. PLACITELLA: Could you mark this next?

25 Q For the record and for the objection of

1 counsel here, marked P-13 is a January 31, 1951 memo
2 from Mr. E. C. J. Urban to Dr. Vorwald. Subject:
3 Preliminary industrial hygiene survey, Owens-Illinois
4 Glass Company, Kaylo Division Plant, Sayreville, New
5 Jersey.

6 (The above-mentioned document is marked as
7 P-13 for Identification.)

8 (Witness reviewing document.)

9 Q I'd like you to -- well, first of all,
10 have you ever seen this document before, sir.

11 A I have no recollection of seeing it.

12 Q Okay. Now, if my understanding is
13 correct, you worked for a period time at the Sayreville
14 plant in 1949 and then you had one occasion to go back
15 there at some time later in your career. Is that
16 correct?

17 A I was there for eight months, approximately
18 eight months and then I recall one day visit back
19 there.

20 Q Now,

21 MR. McGUIRE: '48 or '49, counsel?

22 Q Was it '48 or '49?

23 MR. McGUIRE: My notes indicate '48.

24 MR. PLACITELLA: Let me ask the witness?

25 A I believe it was '48.

1 Q Okay.

2 A But January 2nd, I believe, 1948.

3 Q Fine. Now, I want to show you the third
4 page of this document, which is a diagram of the plant
5 and ask you, does this accurately reflect how the plant
6 was laid out during the time that you worked at the
7 Sayreville plant?

8 (Witness reviewing document.)

9 A To the best of my recollection, yes. I thought
10 there was more autoclaves than that, but -- that
11 generally.

12 Q Is that how you recall it when you were
13 there in 1948 for that eight-month period?

14 A Yes.

15 Q Now, this document indicates that a number
16 of people at the Sayreville plant were contacted. I
17 want to make sure this is correct, the following
18 individuals were contacted at Sayreville.

19 MR. BERRY: That what is correct?

20 MR. PLACITELLA: These people I want to
21 make sure, their identities are correct, okay?

22 Q O. W Pfeifer, plant manager. Was he plant
23 manager in 1951?

24 A Yes.

25 Q William Barker, personnel manager. Was he

1 personnel manager in '51?

2 A Yes.

3 Q P. E. Gillis, was he safety director in
4 1951?

5 A I believe so. Yes.

6 Q And John Roades, I think we discussed him
7 before, quality control engineer?

8 A Yes.

9 Q The list of raw materials is listed right
10 below that and can you tell me if that proports to your
11 understanding of what the raw materials were at the
12 Sayreville plant while you were there, or in 1951?

13 MR. BERRY: I object on the foundation
14 grounds.

15 A I believe, to the best of my recollection,
16 that's a complete list.

17 Q And that indicates, for the record, raw
18 materials diatomaceous earth?

19 A Yes.

20 Q Silica flour?

21 A Yes.

22 Q Tripoli?

23 A Tripoli, is a form of silica.

24 Q Lime?

25 A Yes.

1 A Both quick and hydrated.

2 Q Asbestos, chrysotile,

3 Johns-Manville-Quebec Canada?

4 A Asbestos.

5 Q Asbestos, amosite, iron bearing, South

6 Africa?

7 A Asbestos, yes.

8 Q Kayolin clay?

9 A Yes.

10 Q And cement, commercial grades?

11 A Yes.

12 Q Does this indicate, sir, that in 1951 in
13 round form for pipe insulation covering, two types of
14 Kaylo were made, light density and heavy density, both
15 contain different mixtures of the same original
16 components? Does it indicate that, sir?

17 MR. BERRY: You mean, is that what that
18 document says?

19 MR. PLACITELLA: That's correct.

20 Q As to what was manufactured at the
21 Sayreville plant?

22 (Witness reviewing document.)

23 MR. MCGUIRE: Which paragraph are you
24 referring to, again? Counsel, I think you are
25 misreading. It says two types of Kaylo were

1 made, not two types of pipe covering.

2 A No. We never made heavy density pipe covering.

3 Q Let me read it from the beginning.

4 "Finished Products: 'Kaylo' product in tile forms for
5 structural uses. Reinforced with wire for roofing.
6 Sheets for fire-proof doors and panels. In round forms
7 for pipe insulation covering. Two types of 'Kaylo'
8 were made. 'Light density' and 'Heavy density.' Both
9 contain different mixtures of the same original
10 components."

11 Is that an accurate division of what was
12 made in the Sayreville plant?

13 A Yes.

14 Q Thank you.

15 The light density pipe insulation is what
16 we're discussing. There is no heavy density pipe
17 insulation. is that my understanding?

18 A Yes. The roof tile and core material was heavy
19 density.

20 Q Do you recall that the suppliers of
21 asbestos to Owens-Illinois included North American
22 Asbestos and Johns-Manville as reflected in that
23 document?

24 A I remember those names, yes.

25 Q And that the amosite asbestos came from

1 North American and the chrysotile from Johns-Manville?

2 A I remember that, yes.

3 Q And those products were used at the
4 Sayreville plant, correct?

5 A Yes.

6 Q Were they also used at the Berlin plant?

7 A Yes.

8 Q Thank you, sir.

9 Just a few more questions and I'm done,
10 Mr. Grimmie, and I promise.

11 From your deposition today, we understand
12 that you had as part of your responsibilities
13 enforcement of safety program in the plant from at
14 least 1951 forward, correct?

15 A Yes.

16 Q We know that the Owens-Illinois never
17 showed you the results of any of the Saranac
18 experiments, true?

19 MR. BERRY: Object to the form of the
20 question.

21 A To the best of my recollection, I never saw
22 those documents.

23 Q And they never told you that one of the
24 reasons they were saving X-rays was to defend
25 medical/legal cases, correct?

1 MR. MCGUIRE: Objection asked. And
2 answered.

3 MR. BERRY: Objection to the form of the
4 question.

5 Q Correct?

6 A They never told me that.

7 Q Okay.

8 A That's correct.

9 Q Did they ever tell you that people in the
10 plant were getting sick as of 1956?

11 MR. BERRY: Object to the form of the
12 question.

13 MR. MCGUIRE: Objection. Lack of
14 foundation, too.

15 A You say "they"?

16 Q Owens-Illinois or Owens-Corning, did
17 either one ever tell you that people were getting sick
18 in the plant by 1956?

19 A No.

20 MR. MCGUIRE: I further object. There's
21 no further indication what these people were
22 getting sick from or actually they don't explain
23 it.

24 Q Were you ever informed, Mr. Grimmie, that
25 men working for Owens-Corning Fiberglas, who were

1 applying insulation, were getting sick from
2 asbestos-related disease in the 1950s?

3 MR. McGUIRE: Objection. Lack of
4 foundation. Lack of competency.

5 A Again?

6 MR. McGUIRE: This witness didn't even
7 work for Owens-Corning?

8 A Men working for Owens-Corning?

9 Q Were you aware that men working in the
10 contracting units for Owens-Corning Fiberglas were
11 getting sick from exposure to asbestos in the 1950s?

12 MR. McGUIRE: Same objection.

13 A No, I was not aware of that.

14 Q Were you ever told that beginning as early
15 as 1953, that employees of Owens-Corning Fiberglas who
16 worked in their contracting divisions were filing
17 Worker's Compensation claims for asbestos-related
18 disease?

19 MR. McGUIRE: Same objection.

20 A I'm not aware of that.

21 MR. McGUIRE: Hold on. Let me finish the
22 objection.

23 Q Were you ever aware that Owens-Corning
24 Fiberglas had a contracting unit where
25 asbestos-containing products were applied?

1 MR. MCGUIRE: Don't answer the question.
2 I want to continue the objection that was
3 interrupted. I objected to it, and I ask to
4 have the courtesy to be permitted to finish it
5 without you riding over them. And I make the
6 same objection, that there is no showing that
7 your representation is true.

8 This gentilema did not work for
9 Owens-Corning and at any of those material
10 times. You have no foundation whatsoever upon
11 which this witness can answer the question.

12 MR. PLACITELLA: Well, sir, I will prove
13 that at trial, exactly that and I'm entitled to
14 ask him the questions.

15 Q Were you made aware, sir, at any time that
16 Owens-Corning Fiberglas even had a division called a
17 contracting division where they applied
18 asbestos-containing products?

19 A Yes.

20 Q But you were not made aware that in the
21 1950s, that members of that contracting division were
22 suing Owens-Corning Fiberglas for an asbestos-related
23 disease?

24 MR. MCGUIRE: Again, same objection. Lack
25 of foundation.

1 Q Were you made aware of that, Mr. Grimmie?

2 MR. MCGUIRE: Same objection.

3 MR. PLACITELLA: You can say the objection
4 as much as you want, Mr. McGuire. I'm going to
5 ask the question, he's going to answer it, okay?

6 MR. MCGUIRE: Perhaps a continuing
7 objection?

8 MR. PLACITELLA: I would never give you
9 any continuing objection.

10 MR. MCGUIRE: Okay.

11 Q Mr. Grimmie?

12 A I have no recollection of that. These are
13 contract, supplying contract employees --

14 Q That's right.

15 A -- that were handling Kaylo since when, 1946?

16 Q Since --

17 A And they got asbestosis in 1953.

18 Q I said, during the --

19 A I have no recollection of ever knowing that.

20 Q And were you made aware that any of these
21 contracting employees ever filed Worker's Compensation
22 claims against Owens-Corning Fiberglas?

23 A I have no recollection of that.

24 Q They never told you about a single one?

25 MR. MCGUIRE: Objection. At what

1 particular time, if ever?

2 MR. PLACITELLA: At any point in time,
3 sir. That's my question.

4 MR. MCGUIRE: There is absolutely no
5 reason for Owens-Corning to have done this
6 anyway. You are free to ask. This is one more
7 thing he had no knowledge of that.

8 MR. PLACITELLA: You will stipulate that
9 that statement can be read to the jury that
10 there was no reason for Owens-Corning to have
11 done this?

12 MR. MCGUIRE: That has nothing to do with
13 that here at the deposition.

14 Q Let me ask you the question again, please,
15 Mr. Grimmie.

16 Am I true, that Owens-Corning Fiberglas
17 never told you that a single employee in their
18 contracting division ever sued them in Worker's
19 Compensation for an asbestos-related disease?

20 A I can't imagine why they would tell me something
21 like that. That's out of my jurisdiction.

22 Q Is the answer no, sir?

23 A No.

24 Q And am I correct, sir, that Owens-Illinois
25 never told you that the TLV was unreliable?

1 MR. MCGUIRE: Objection.

2 MR. BERRY: Objection.

3 A I have no recollection of that.

4 Q Am I correct that Owens-Corning Fiberglas
5 never told you that the TLV was unreliable.

6 MR. MCGUIRE: Same objection.

7 A I have have no recollection of that.

8 Q Sir, while you worked at the
9 Owens-Illinois plant, were you ever given any
10 information distributed to Owens-Illinois by the
11 industrial hygiene foundation?

12 A I have no recollection of that.

13 Q It's always a good sign when a lawyer
14 flips through his papers.

15 MR. BERRY: I'm sure, Mr. Grimmie, is won
16 over by your continuing warmth.

17 Q Okay. That's all the questions I have.
18 Thank you very much.

19 MR. MCGUIRE: We'll take a short break.

20 MR. PLACITELLA: I do have a couple other
21 questions. I'm sorry.

22 BY MR. PLACITELLA:

23 Q During the lunch break did you discuss the
24 substance of this deposition?

25 MR. MCGUIRE: Objection.

1 MR. BERRY: Objection.

2 A No.

3 MR. MCGUIRE: I Instruct the witness not
4 to answer.

5 Q Who was present at lunch, Mr. Grimmie?

6 MR. MCGUIRE: Same objection. Don't
7 answer.

8 Q Mr. Berry was present?

9 A Yes.

10 Q He's not your lawyer here today?

11 A I had lunch with Mr. Berry.

12 MR. PLACITELLA: Now, counsel, is it your
13 position that I'm not able to inquire as to what
14 happened during lunch given the fact that
15 Mr. Berry, who is not the witness' counsel,
16 was present during the lunch period?

17 MR. BERRY: Mr. Placitella, we assert
18 a joint defense privilege.

19 MR. PLACITELLA: You can assert a
20 privilege, Mr. Berry, on behalf of the witness?

21 MR. BERRY: A joint defense privilege.

22 MR. MCGUIRE: This witness is here also as
23 a former Owens-Illinois employee.

24 MR. PLACITELLA: Just so I know, because I
25 will bring this to the attention of the court,

1 if he's not able to answer the question, will
2 you allow him to answer the question, what
3 transpired over lunch given the fact that
4 Mr. Berry was present and was not representing
5 this individual and is not his attorney.

6 MR. GRAHAM: Maybe Mr. Berry was paying
7 for the lunch.

8 MR. PLACITELLA: That's all I want to
9 know.

10 MR. GRAHAM: I'll take him along, that's
11 okay, you can pay for my lunch of any time.

12 MR. MCGUIRE: I think it's an improper
13 area to inquire into. I don't know what
14 Mr. Berry's position is.

15 MR. BERRY: I frankly don't -- I don't
16 waive anything, but we got to get on with this
17 and so --?

18 THE WITNESS: Well, I have no objection,
19 but I can't see some donkey prying into my
20 private affairs.

21 I went to lunch. I thought we were
22 out of here. It was going to be a luncheon. It
23 was a very delicious sandwich, incidentally,
24 which I needed to take the medicine to keep my
25 head from wobbling, which it's about ready to

1 start doing from fatigue.

2 MR. BERRY: We better take a break then.

3 Mr. Placitella can think about what he'd like to
4 do.

5 MR. PLACITELLA: The question is still
6 before the witness, you can decide.

7 MR. MCGUIRE: Okay.

8 MR. BERRY: We will break.

9 (Recess.)

10 MR. PLACITELLA: I'll solve some of the
11 problem, I'll withdraw the pending question
12 for now --

13 BY MR. PLACITELLA:

14 Q -- except that, Mr. Grimmie, your counsel
15 just showed you something. What did he show you?

16 A A picture.

17 Q What was the picture of?

18 A A carton sealer at the Berlin plant.

19 Q A carton sealer?

20 A Yes.

21 Q What did that picture demonstrate?

22 A Demonstrated cartons going through the sealer to
23 be sealed.

24 Q And during the brake you also had

25 discussions with Mr. Berry, did you not?

1 A Yes.

2 Q That's all the questions I have. Thank
3 you.

4 MR. MCGUIRE: Any other questions.

5 CROSS-EXAMINATION BY MR. WEINER:

6 Q Mr. Grimmie, I'll be asking you some
7 questions now. I'm going to try to do them from here.

8 A So far.

9 Q I will talk louder to make sure the court
10 reporter can get everything, and if you can't hear
11 anything I say, please just indicate and I'll speak up.

12 MR. MCGUIRE: Indicate whom you represent.

13 MR. WEINER: I beg your pardon?

14 MR. MCGUIRE: Could you indicate whom you
15 represent?

16 MR. WEINER: You can look it up, my
17 appearance.

18 MR. BERRY: Madam reporter, would you
19 indicate who he represents?

20 MR. WEINER: I represent Veteran Pipe.

21 BY MR. WEINER:

22 Q Mr. Grimmie, do you have a health
23 condition that would in any way prevent you from
24 understanding or answering any of the questions posed
25 to you?

1 A Only my long absence from my work and my memory
2 is not as good as it used to be. No health condition.

3 Q And that applies as to questions that have
4 been asked up to this point by Mr. Placitella, there
5 was no health problem that would have interfered with
6 what he asked you today?

7 A No, sir.

8 Q You are not taking any medication that
9 would interfere with your ability to understand
10 questions and answer questions, are you?

11 A No.

12 Q And it's now 4 o'clock, and you have been
13 here most of the day, do you have any problem with
14 going on for awhile longer and answering some
15 questions?

16 A No.

17 MR. WEINER: Off the record for one
18 second.

19 (Discussion off record.)

20 MR. MCGUIRE: Mr. Grimmie has advised me
21 that he's feeling tired and his medical
22 condition that affects the, I believe you said
23 the waving of the head?

24 THE WITNESS: Benign tremor.

25 MR. MCGUIRE: Benign tremor is a problem

1 for him and considering the lateness of the hour
2 and the fact that we have more questioning than
3 is going to be completed in the half an hour the
4 court reporter will be available, we want to
5 adjourn the deposition to a future agreed date.

6 MR. PLACITELLA: Well, Mr. McGuire, five
7 minutes ago Mr. Grimmie said he was fine to
8 proceed. I think all counsel can recollect
9 that. I am quite concerned that you'e
10 attempting to adjourn this deposition so that
11 you can further counsel Mr. Grimmie prior to
12 another day of deposition.

13 We are ready to proceed, and let's
14 see if you actually finish your questions in
15 less than a half hour.

16 MR. BERRY: Mr. Placitella, I'm quite sure
17 I can't. I make that as a good faith
18 representation to you. I'm sorry, it distresses
19 you. The witness is 69 years old. He's been
20 working all day. It's 4 o'clock. We're not
21 going to finish. If you have concerns that you
22 believe are appropriate to bring to the court,
23 you know, you could do that, that's okay.

24 So, I mean, for my part, I would
25 unwelcome being a party to keeping Mr. Grimmie

1 here and then having to start up on another day
2 anyway, so.

3 THE WITNESS: Well, I want to say
4 something, all I said, if we can't finish today,
5 then break it and we come back another day. I
6 don't see going on and then coming back
7 again. If we can finish, go on.

8 MR. PLACITELLA: It's not a question of
9 your health then, Mr. Grimmie?

10 THE WITNESS: All I'm saying is, that I
11 know from my fatigue, my head going to start
12 bouncing, all right?

13 MR. PLACITELLA: Mr. McGuire just said
14 your health was not going to --

15 THE WITNESS: What the hell is the head
16 tremor, if it's not my health?

17 MR. PLACITELLA: Do you feel like
18 continuing today, Mr. Grimmie?

19 THE WITNESS: Yes. Can we finish?

20 MR. MCGUIRE: Mr. Grimmie, to make sure,
21 we have a half hour with the court reporter's
22 ability. Mr. Berry has anticipated at least
23 another hour of questioning. I, too, have
24 questioning. We cannot represent to you in good
25 faith that we can conclude this deposition

1 inside of the next 28 minutes.

2 MR. PLACITELLA: I guess you hold the
3 cards, Mr. McGuire. I hope the next deposition,
4 when you're asking the question it's conducted
5 in quite a different atmosphere than today.

6 MR. MCGUIRE: Thank you. We'll arrange
7 another date.

8 MR. PLACITELLA: Within the next week,
9 please?

10 MR. MCGUIRE: I will be on trial.

11 MR. PLACITELLA: You can assign another
12 attorney, please, to finish the deposition.

13 MR. MCGUIRE: All right.

14 MR. PLACITELLA: Because I cannot
15 wait for you to finish your trial in order to
16 finish Mr. Grimmie's deposition.

17 There are many fine counsel here in
18 New Jersey on behalf of Owens-Corning Fiberglas
19 that can do that and could you please tell me
20 now, who I should contact to make those
21 arrangements because I do not want to chase you
22 through the courthouse in order to get your
23 attendance here to finish this deposition?

24 MR. MCGUIRE: Okay. You can contact
25 myself. I'm flattered with your inclusion of me

1 as to the very fine New Jersey attorneys
2 representing New Jersey Owens-Corning and I'm
3 honored by that. But I'm the attorney who is
4 responsible for this proceeding and it would
5 plainly be unfair to try to interrupt this.
6 We're certainly available to work with you. I'm
7 sure we might be able to persuade one of the
8 judges that your deposition is more important
9 than his trial. I'll give it a good faith
10 effort but --

11 MR. PLACITELLA: I'm prepared to proceed
12 tomorrow, Mr. McGuire. Do you have trial
13 tomorrow?

14 MR. MCGUIRE: Tomorrow being Saturday?

15 MR. PLACITELLA: That's correct.

16 MR. MCGUIRE: No, I don't have trial.

17 MR. PLACITELLA: I want to accommodate
18 your trial schedule, sir. I am prepared to come
19 down to Berlin tomorrow to finish this
20 deposition because it is needed in a case that
21 is scheduled for trial this particular month and
22 we cannot wait for your availability.

23 MR. MCGUIRE: Okay.

24 MR. PLACITELLA: In order to accommodate
25 you, sir, I will come to Mr. Grimmie's home if

1 necessary tomorrow to accommodate your schedule.

2 MR. MCGUIRE: Okay. Unfortunately, I'm
3 unavailable tomorrow. There may be a time, a
4 motion day next week, perhaps, where we can do
5 this. Motion days in Camden typically
6 being Friday, but on this short notice I can't
7 rearrange my schedule to be available tomorrow
8 and we haven't even inquired as to the
9 availability of the witness on such shortness to
10 drop whatever he's doing on Saturday, much less
11 less the other counsel here.

12 Now, Mr. Grimmie has been deposed
13 many times and I think in the course of this
14 deposition, we've referred to each of the three
15 different occasions. So it's not as if you
16 been refused of any testimony of Mr. Grimmie on
17 the record including by video-tape deposition
18 taken specifically to avoid the very incident
19 we're here today on and other deposition taken
20 in front of then Magistrate Cohen, now a member
21 of the Third Circuit, specifically in
22 anticipation of Mr. Grimmie, should have to be
23 coming back repeatedly for these sorts of
24 occasions. So it's not as if you don't have
25 testimony you can use, sir.

1 MR. PLACITELLA: Is it my understanding,
2 Mr. McGuire, you're willing to stipulate that
3 all prior transcripts of Mr. Grimmie are useable
4 against Owens-Corning Fiberglas?

5 MR. MCGUIRE: I think under the rules
6 virtually any deposition can be used provided it
7 meets the appropriate requirement of the rules.

8 MR. PLACITELLA: Not given the posture
9 they had in that case, I want to ask the
10 question again, are you stipulating that all
11 prior transcripts of Mr. Grimmie are useable
12 against Owens-Corning Fiberglas?

13 MR. MCGUIRE: I think we would have a hard
14 time conjuring up to the court a reason why any
15 of those transcripts cannot be used in New
16 Jersey.

17 MR. PLACITELLA: Let me ask the question
18 again, are you stipulating that all prior
19 transcripts of Mr. Grimmie can be used against
20 Owens-Corning Fiberglas?

21 MR. MCGUIRE: In this case? Yes.

22 MR. PLACITELLA: What do you mean "in this
23 case"?

24 MR. MCGUIRE: In the cases in which these
25 depositions -- this deposition has been noticed.

1 MR. PLACITELLA: No. That's not my
2 question. Are you stipulating that all prior
3 transcripts can be used against Owens-Corning
4 Fiberglas in any proceeding in which
5 they're a party?

6 MR. MCGUIRE: I don't think I even have to
7 stipulate. I think as a matter of law that can
8 be.

9 MR. PLACITELLA: Is the answer yes, sir?

10 MR. MCGUIRE: The answer is we are not
11 making such a stipulation, although I think
12 they're admissible anyway.

13 MR. PLACITELLA: The answer is, you won't
14 stipulate, correct, sir?

15 MR. MCGUIRE: That's right.

16 MR. PLACITELLA: So, then, we have to
17 finish his deposition and we have to finish it
18 in short order.

19 MR. MCGUIRE: Okay, Mr. Placitella.

20 Mr. Grimmie, are there days
21 that you are not available?

22 THE WITNESS: I'll ask the surgeon.

23 MR. PLACITELLA: Is that your wife?

24 THE WITNESS: No. That's the surgeon.

25 You ought to know that. If I said the warden,

1 then you could ask that question and I would say
2 yes.

3 MR. PLACITELLA: You got to explain things
4 very clearly to donkeys.

5 (Discussion off record.)

6 (The deposition is adjourned at 4:15 p.m.)

C E R T I F I C A T E

I, SANDRA A. PRASNAL, Notary Public and
Certified Shorthand Reporter, do hereby certify that
prior to the commencement of the examination

RICHARD GRIMMIE

was duly sworn by me to testify the truth, the whole
truth, and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is
a true and accurate transcript of the testimony as
taken stenographically by and before me at the time,
place, and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a
relative of nor employee nor attorney nor counsel for
any of the parties to this action; and that I am
neither a relative nor employee of such attorney or
counsel; and that I am not financially interested in
the action.

Sandra A. Prasnal

Notary Public of the State of New Jersey

My Commission Expires March 25, 1992